

LOCAL RULES OF PRACTICE
OF THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

Frank E. Moss United States Courthouse
350 South Main Street
Room 348
Salt Lake City, Utah 84101

December 4, 2003

TABLE OF CONTENTS

RULE 1001-1

LOCAL RULES - GENERAL	1
(a) <u>Scope and Citation</u>	1
(b) <u>Availability</u>	1
(c) <u>Amendments to the Local Rules</u>	1
(d) <u>Definition of Words of Authority</u>	1

RULE 1001-2

LOCAL RULES - STANDING ORDERS	3
(a) <u>Issuance and Availability of Standing Orders</u>	3
(b) <u>Publication of Standing Orders</u>	3

RULE 1007-1

DEBTOR'S DUTY TO PROVIDE LIST OF ADDRESSES FOR NOTICE	4
---	---

RULE 1007-2

STATEMENT OF INTENTION	5
------------------------------	---

RULE 1014-1

CHANGE OF VENUE	6
(a) <u>Within the District</u>	6
(b) <u>To Another District</u>	6

RULE 1015-1

JOINT ADMINISTRATION/CONSOLIDATION	7
--	---

RULE 1020-1

CHAPTER 11 SMALL BUSINESS CASES	8
---------------------------------------	---

RULE 1073-1

ASSIGNMENT OF CASES	9
(a) <u>Random Selection Case Assignment System</u>	9
(b) <u>Judicial Recusal or Disqualification</u>	9
(c) <u>Unavailability of Assigned Judge</u>	9

RULE 2002-1

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES	10
(a) <u>Scope of Rule</u>	10
(b) <u>Form of Notice</u>	10

(c)	<u>Service of Notice</u>	10
(d)	<u>Returned Notices</u>	10
(e)	<u>Notice of Compensation in Chapter 7 Case</u>	10
(f)	<u>Notice of Entry of Confirmation Order</u>	10
(g)	<u>Notice to Certain Governmental Entities</u>	10
 RULE 2003-1		
	MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS	12
(a)	<u>Attendance</u>	12
(b)	<u>Telephonic Appearance at Meeting of Creditors</u>	12
(c)	<u>Debtor Identification</u>	13
(d)	<u>Information Requested by the Trustee or by the United States Trustee at the Meeting of Creditors</u>	13
(e)	<u>Costs of Meeting Facilities.</u>	13
(f)	<u>Notice of Rescheduled Meetings of Creditors</u>	13
 RULE 2004-1		
	EXAMINATIONS UNDER RULE 2004	14
 RULE 2081-1		
	CHAPTER 11 - GENERAL	15
(a)	<u>Initial Financial Reports and Other Documents.</u>	15
(b)	<u>Monthly Financial Reports</u>	15
(c)	<u>Post-Confirmation Summary Report</u>	15
 RULE 2082-1		
	CHAPTER 12 - GENERAL	17
(a)	<u>Monthly Financial Reports.</u>	17
(b)	<u>Filing of Chapter 12 Plan</u>	17
(c)	<u>Payments</u>	17
(d)	<u>Attorney's Fees</u>	17
(e)	<u>Monthly Payments</u>	18
 RULE 2083-1		
	CHAPTER 13 - GENERAL	19
(a)	<u>Chapter 13 Plan Payments.</u>	19
(b)	<u>Failure to Make Payments</u>	19
(c)	<u>Postpetition Child Support, Alimony, Maintenance Payments Deemed Voluntary</u>	19
(d)	<u>Eligibility Hearing</u>	20
(e)	<u>Distribution in Discontinued Preconfirmation Cases</u>	20

(f)	<u>Consent Calendar</u>	20
RULE 2090-1		
	ATTORNEYS - ADMISSION TO PRACTICE	21
(a)	<u>Bar of the Court</u>	21
(b)	<u>Other Permitted Appearances</u>	21
(c)	<u>Participation of a Local Attorney</u>	21
(d)	<u>Attorneys for the United States</u>	22
(e)	<u>Parties Appearing Without an Attorney</u>	22
(f)	<u>Standards of Professional Conduct</u>	22
(g)	<u>Student Practice</u>	22
RULE 2090-2		
	ATTORNEYS - REGISTRATION	23
RULE 2090-3		
	ATTORNEYS - DISCIPLINE AND DISBARMENT	24
RULE 2091-1		
	ATTORNEYS - SCOPE OF REPRESENTATION, WITHDRAWAL AND SUBSTITUTION	25
(a)	<u>Scope of Representation</u>	25
(b)	<u>Withdrawal and Substitution</u>	25
(c)	<u>Withdrawal and Substitution After Hearing Before the Court or Trial Date is Scheduled</u>	26
(d)	<u>Notification of Substituted Attorney</u>	26
(e)	<u>Responsibilities of Party Upon Removal</u>	27
RULE 3003-1		
	BAR DATE FOR FILING PROOF OF CLAIM OR INTEREST IN CHAPTER 11 CASES	28
(a)	<u>Bar Date in Chapter 11 Cases</u>	28
(b)	<u>Notification of Bar Date in Chapter 11 Cases</u>	28
RULE 3007-1		
	OBJECTIONS TO CLAIMS	29
(a)	<u>Notice of Objection to Claim</u>	29
(b)	<u>Response to Objection to Claim</u>	29
RULE 3022-1		
	FINAL REPORT/DECREE (Ch. 11)	30

RULE 4001-1	
RELIEF FROM AUTOMATIC STAY	31
(a) <u>Motions for Relief from Stay</u>	31
(b) <u>Objections to Motions for Relief from Stay</u>	31
(c) <u>Hearings on Motions for Relief from Stay</u>	31
RULE 4001-2	32
FINANCING MOTIONS AND ORDERS	32
(a) <u>Motions</u>	32
(b) <u>Interim relief</u>	33
(c) <u>Final Orders</u>	34
RULE 4002-1	
ADDRESS OF DEBTOR	35
RULE 5001-1	
CLERK - OFFICE LOCATION/HOURS	36
(a) <u>Office of Record</u>	36
(b) <u>Hours of Business</u>	36
RULE 5003-1	
THE CLERK’S AUTHORITY	37
(a) <u>Orders, Judgments and Other Documents</u>	37
(b) <u>Review of Clerk’s Actions</u>	37
RULE 5003-2	
COURT PAPERS	38
(a) <u>Access</u>	38
(b) <u>Electronic Filing System</u>	38
(c) <u>Sealed or Impounded Papers</u>	38
RULE 5005-1	
FILING REQUIREMENTS	39
(a) <u>Filing of Papers</u>	39
(b) <u>Petitions, Schedules, Statements, and Plans</u>	39
(c) <u>List of Creditors and Equity Security Holders</u>	41
(d) <u>Cover Sheets in Contested Matters</u>	41
(e) <u>Date-Stamped Copies</u>	41
(f) <u>Facsimile Filing</u>	41

RULE 5005-2

FILING PAPERS- ELECTRONIC FILING	42
(a) <u>Assignment to Electronic Filing System</u>	42
(b) <u>When Electronic Filing is Required</u>	42
(c) <u>Eligibility and Registration of Filing Users and Applicable Rules</u>	42
(d) <u>Consequences of Electronic Filing</u>	44
(e) <u>Attachments and Exhibits</u>	44
(f) <u>Retention Requirements</u>	45
(g) <u>Signatures</u>	45
(h) <u>Technical Failures</u>	46

RULE 5005-3

FILING PAPERS - SIZE AND FORM OF PAPERS	47
(a) <u>Size</u>	47
(b) <u>Form</u>	47
(c) <u>Electronic Filing</u>	47

RULE 5072-1

DECORUM	48
(a) <u>Conduct</u>	48
(b) <u>Courtroom Conduct of Attorneys</u>	48
(c) <u>Courtroom Argument</u>	49

RULE 5080-1

FEES - GENERAL	50
(a) <u>Payment of Fees</u>	50
(b) <u>Dishonored Payments</u>	50

RULE 5090-1

VISITING JUDGES	51
------------------------	----

RULE 6005-1

APPRAISERS AND AUCTIONEERS	52
(a) <u>General</u>	52
(b) <u>Appointment</u>	52
(c) <u>Letters of Reference</u>	53
(d) <u>Effect of Appointment</u>	53
(e) <u>Procedure for Sales by Appointed Standing Auctioneers</u>	53
(f) <u>Commissions</u>	54
(g) <u>Expenses</u>	54
(h) <u>Removal and Resignation</u>	54

(i) <u>Hearings on Sales Conducted by a Standing Auctioneer</u>	54
RULE 6007-1	
ABANDONMENT	55
RULE 6070-1	
TAX RETURNS AND TAX REFUNDS	56
(a) <u>Tax Requirements in Chapter 11, 12 and 13 Cases</u>	56
(b) <u>Tax Returns in Chapter 12 Cases</u>	57
(c) <u>Tax Returns in Chapter 13 Cases</u>	58
(d) <u>Modification of the Automatic Stay for Certain Assessments and Refunds of Taxing Entities</u>	58
RULE 7003-1	
COVER SHEETS IN ADVERSARY PROCEEDINGS	59
RULE 7005-1	
FILING OF DISCOVERY MATERIALS	60
RULE 7016-1	
PRETRIAL PROCEDURES	61
(a) <u>Initial Pretrial Conference</u>	61
(b) <u>Parties' Planning Conference</u>	61
(c) <u>Scheduling Order</u>	61
(d) <u>Expedited Adversary Proceeding</u>	61
(e) <u>Supplemental Pretrial Conferences</u>	61
(f) <u>Attorneys' Conference</u>	62
(g) <u>Final Pretrial Conference</u>	62
(h) <u>Pretrial Order</u>	62
RULE 7024-1	
CLAIM OF UNCONSTITUTIONALITY	63
(a) <u>An Act of Congress</u>	63
(b) <u>A Statute of a State</u>	64
RULE 7026-1	
DISCOVERY - GENERAL	65
(a) <u>Attorney Managed Discovery</u>	65
(b) <u>Court Managed Discovery</u>	65
(c) <u>Form of Certain Discovery Documents</u>	65

RULE 7041-1	
DISMISSAL - VOLUNTARY AND FOR LACK OF PROSECUTION	66
(a) <u>Voluntary Dismissal</u>	66
(b) <u>Dismissal for Lack of Prosecution</u>	66
RULE 7052-1	
FINDINGS AND CONCLUSIONS	67
RULE 7054-1	
COSTS - TAXATION/PAYMENT	68
(a) <u>Bill of Costs</u>	68
(b) <u>Objections to Bill of Costs</u>	68
(c) <u>Taxation of Costs</u>	68
(d) <u>Judicial Review</u>	68
RULE 7055-1	
DEFAULT - FAILURE TO PROSECUTE	69
(a) <u>Judgment by Default Entered by Clerk</u>	69
(b) <u>Judgment by Default Entered by Court</u>	69
(c) <u>Clerk's Action Reviewable</u>	69
RULE 7056-1	
SUMMARY JUDGMENT	70
(a) <u>Fact Statement</u>	70
(b) <u>Contested Facts</u>	70
(c) <u>Filing Deadlines, Length of Memoranda and Reply Memoranda</u>	70
RULE 7067-1	
REGISTRY FUND	72
(a) <u>Court Orders Relating to Deposits</u>	72
(b) <u>Registry Funds Invested in Interest-Bearing Accounts</u>	72
(c) <u>Service Upon the Clerk</u>	72
(d) <u>Deposit of Funds</u>	72
(e) <u>Disbursements of Registry Funds</u>	73
(f) <u>Management and Handling Fees</u>	73
(g) <u>Verification of Investment</u>	73
(h) <u>Liability of the Clerk</u>	73
(i) <u>Cash Bonds</u>	73
RULE 7069-1	
EXECUTION OF JUDGMENT	75

(a)	<u>Domestication of Judgment</u>	75
(b)	<u>Motion to Appear</u>	75
(c)	<u>Hearing Before Bankruptcy Court</u>	75
(d)	<u>Failure to Appear</u>	75
(e)	<u>Fees and Expenses</u>	76
 RULE 9004-1		
	CAPTION - PAPERS, GENERAL	77
(a)	<u>General</u>	77
(b)	<u>Title</u>	77
 RULE 9006-1		
	TIME PERIODS	78
(a)	<u>Time for Filing Motions</u>	78
(b)	<u>Briefing Schedule</u>	78
(c)	<u>Additional Time After Service by Mail, Facsimile or Electronic Means</u>	78
 RULE 9010-1		
	ATTORNEYS - NOTICE OF APPEARANCE	79
(a)	<u>Attorney of Record</u>	79
(b)	<u>Notification of Change in Address or Telephone Number</u>	79
(c)	<u>Appearance by Attorney</u>	79
 RULE 9011-1		
	PAPERS SIGNED BY AN ATTORNEY	80
 RULE 9011-2		
	PARTIES APPEARING WITHOUT AN ATTORNEY	81
(a)	<u>Attorney Appearance Required</u>	81
(b)	<u>Rules Applicable to Individuals Appearing Without an Attorney</u>	81
 RULE 9013-1		
	MOTION PRACTICE	82
(a)	<u>Scope of Rule</u>	82
(b)	<u>Motions</u>	82
(c)	<u>Response to Motions</u>	82
(d)	<u>Memorandum of Authorities</u>	82
(e)	<u>Courtesy Copies</u>	83
(f)	<u>Overlength Memoranda</u>	83
(g)	<u>Certificate of Service</u>	84
(h)	<u>Service of Documents by Electronic Means</u>	84

RULE 9014-1	
DISCOVERY IN CONTESTED MATTERS	85
RULE 9015-1	
JURY TRIAL	86
(a) <u>Demand</u>	86
(b) <u>Applicable Rules</u>	86
(c) <u>Consent to Have Trial Conducted by Bankruptcy Judge</u>	86
RULE 9019-1	
SETTLEMENTS OF ADVERSARY PROCEEDINGS	87
(a) <u>General</u>	87
(b) <u>Settlement of Adversary Proceeding with Trial Date</u>	87
RULE 9019-2	
ALTERNATIVE DISPUTE RESOLUTION	88
RULE 9021-1	
PREPARATION AND SUBMISSION OF JUDGMENT OR ORDER	89
(a) <u>Separate Document Requirement</u>	89
(b) <u>Review and Approval Procedures</u>	89
(c) <u>Entry of Court Orders</u>	90
(d) <u>Judgment Based Upon a Written Instrument</u>	90
(e) <u>Papers to Accompany Proposed Judgments, Orders or Notices of Appeal</u>	90
RULE 9022-1	91
NOTICE OF JUDGMENT OR ORDER	91
RULE 9070-1	
EXHIBITS	92
(a) <u>Prior to Trial</u>	92
(b) <u>During Trial</u>	92
(c) <u>After Trial</u>	92
(d) <u>Contested Matters</u>	93
RULE 9071-1	
PROCEDURAL STIPULATIONS	94
(a) <u>Procedural Requirement</u>	94
(b) <u>Court Approval - General</u>	94
(c) <u>Stipulations to Continue Proceedings</u>	94

(d)	<u>Continuance of Trial or Hearing Date</u>	94
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RULE 9073-1

	HEARINGS	95
(a)	<u>Scope of Rule</u>	95
(b)	<u>Setting Hearings</u>	95
(c)	<u>Order of Hearings</u>	95
(d)	<u>Movant Responsible to Give Notice</u>	95
(e)	<u>Cancellation of Hearings</u>	95
(f)	<u>Withdrawal of Motion</u>	95
(g)	<u>Withdrawal of Response to Motion</u>	95
(h)	<u>Failure to Appear at a Hearing</u>	96

APPENDIX A	
<u>FORM FOR REPORT OF PARTIES' PLANNING MEETING PURSUANT</u>	
<u>TO FED. R. CIV. P. 26(f), FED. R. BANKR. P. 7026 AND LOCAL</u>	
<u>RULE 7016-1(b)</u>	97
APPENDIX B	
<u>FORM FOR PRETRIAL ORDER REQUIRED BY LOCAL</u>	
<u>RULE 7016-1(h)</u>	100
APPENDIX C	
<u>MONTHLY FINANCIAL REPORT - CHAPTER 11</u>	103

RULE 1001-1

LOCAL RULES - GENERAL

(a) **Scope and Citation.** Title 11 (“the Code”) and portions of titles 18 and 28 of the United States Code, the Federal Rules of Bankruptcy Procedure (“Fed. R. Bankr. P.”), the Rules of Practice of the United States District Court for the District of Utah (“DUCivR”), these Local Rules of Practice of the United States Bankruptcy Court for the District of Utah (“Local Rules”), and all standing orders of the court issued under Local Rule 1001-2(a), govern proceedings and practice before the United States Bankruptcy Court for the District of Utah (“court”). These Local Rules should be cited as “Bankr. D. Ut. LBR ____” or “Local Rule____.”

(b) **Availability.** Copies of these Local Rules, with appendices, are available from the clerk's office for a reasonable charge to be determined by the clerk. Upon admission to the bar of the United States District Court for the District of Utah, each attorney will be provided a copy of these Local Rules, with appendices, in force at the time of admission. Attorneys admitted pursuant to Local Rule 2090-1(b) and individuals appearing without an attorney will be provided a copy of these Local Rules upon request and payment to the clerk of the appropriate fee.

(c) **Amendments to the Local Rules.** The court may amend these Local Rules subject to DUCivR 83-7.4. The court will provide notice of proposed amendments and, after a comment period to be determined by the court, notice of the effective date of the approved amendments.

(d) **Definition of Words of Authority.** As used in these Local Rules, the following words of authority have the meaning indicated:

must	=	is required to
must not	=	is required not to
may	=	has discretion to
		is permitted to
		has a right to
is entitled to	=	has a right to
will	=	(expresses a future contingency)
should	=	(denotes a directory provision)

RULE 1001-2

LOCAL RULES - STANDING ORDERS

(a) **Issuance and Availability of Standing Orders.** The court may issue standing orders to govern practice and procedure before this court that supplement these Local Rules with the approval of the Chief Judge of the District Court. All individuals entering an appearance before this court should be familiar with the standing orders. Copies of all current standing orders should be maintained by the clerk, and made available to the public for inspection and copying. The court may from time to time post usage protocols related to electronic filing to assist Filing Users. The court's posted usage protocols do not have the effect of standing orders.

(b) **Publication of Standing Orders.** When a new standing order is issued, the clerk should post the standing order outside the clerk's office for at least 3 months. The clerk should also submit the standing order to the Utah Bar Journal for publication immediately after the standing order or amendment is issued.

RULE 1007-1 Standing Order #2

DEBTOR'S DUTY TO PROVIDE LIST OF ADDRESSES FOR NOTICE

The debtor must file with the petition, or present electronically within 2 days thereafter, a list containing the name and address, including zip code, of each creditor and party in interest in a format designated by the clerk.

RULE 1007-2

STATEMENT OF INTENTION

The court may dismiss an individual debtor's Chapter 7 case if the debtor fails to comply with § 521(2) of the Code and Fed. R. Bankr. P. 1007(b)(2). If the debtor does not file a statement of intention timely, the trustee must file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. The objecting party must set a hearing date and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). If a hearing on the objection is not held within 40 days after the objection is filed, the clerk must enter the order of dismissal, unless the court orders otherwise.

RULE 1014-1

CHANGE OF VENUE

- (a) **Within the District.** In the interest of justice or for the convenience of the parties, the court may change venue of a case or proceeding from one division of the court to another. A motion for intra-district transfer is governed by Fed. R. Bankr. P. 9014 and Local Rule 9013-1.
- (b) **To Another District.** For procedures to change venue of a case or proceeding to another district, see DUCivR 83-7.1(a) and (c) and Fed. R. Bankr. P. 1014.

RULE 1015-1

JOINT ADMINISTRATION/CONSOLIDATION

A motion for consolidation or joint administration of cases may be brought before any judge assigned to one of the cases. If the motion is granted, the cases will be consolidated into or jointly administered under the case having the lowest docket number. The judge assigned to the case with the lowest number will retain the assignment for the consolidated or jointly administered case.

RULE 1020-1 Standing Order #2

CHAPTER 11 SMALL BUSINESS CASES

In a Chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election in accordance with Fed. R. Bankr. P. 1020, or by marking the appropriate box on Official Form 1.

RULE 1073-1

ASSIGNMENT OF CASES

The assignment of cases to the judges of the court is the responsibility of the Chief Judge of the court and will, unless otherwise modified, proceed as follows:

(a) **Random Selection Case Assignment System.** Case assignments are made on a nonpublic rotating calendar established and monitored by the clerk, except that a blind draw will occur in all Chapter 11 cases, involuntary cases, and in Chapter 7 cases with 100 creditors or more.

(b) **Judicial Recusal or Disqualification.** If a judicial recusal or disqualification occurs, another judge will be assigned to the case by random selection. If all judges recuse themselves or are disqualified, the Chief Judge will request the Chief Judge of the United States Court of Appeals for the Tenth Circuit to assign a bankruptcy judge from another district to the case.

(c) **Unavailability of Assigned Judge.** A party may request relief from any judge of the court if the assigned judge is unavailable.

RULE 2002-1 Standing Order # 2

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

(a) **Scope of Rule.** This rule governs notice of proposed actions, motions, applications, and other requests for relief in bankruptcy cases.

(b) **Form of Notice.** A notice required by this rule to parties in interest may include a statement that the relief requested may be granted without a hearing unless an objection is timely filed. A notice not accompanied by a motion must state the relief requested and explain the basis for the relief.

(c) **Service of Notice.** The movant must serve the notice of hearing on all parties as required by the Federal Rules of Bankruptcy Procedure.

(d) **Returned Notices.** If any notices delivered by the court are returned, the debtor should update the mailing matrix as necessary to reflect the current addresses of parties in interest.

(e) **Notice of Compensation in Chapter 7 Case.** Before filing a final report in a Chapter 7 case, the trustee must notify any entity who, to the knowledge of the trustee, may be entitled to compensation or reimbursement under § 330 of the Code. The entity may, within 10 days of service of the notice, file an application for compensation and reimbursement of expenses.

(f) **Notice of Entry of Confirmation Order.** The plan proponent must provide notice of the entry of an order confirming a Chapter 9, 11 or 12 plan under Fed. R. Bankr. P. 2002(f)(7).

(g) **Notice to Certain Governmental Entities.** In addition to all other notice requirements found in the Federal Rules of Bankruptcy Procedure, when notices are required to be sent to the Internal Revenue Service, the Utah State Tax Commission, or the Utah Department of Workforce Services, notices

should be mailed or delivered to the following addresses:

Internal Revenue Service
Attn: Special Procedures, Mail Stop 5021
50 South 200 East
Salt Lake City, Utah 84111

Taxpayer Service Division
Utah State Tax Commission
Attn: Bankruptcy Unit
210 North 1950 West
Salt Lake City, Utah 84134-3340

Utah Department of Workforce Services
Collections - Bankruptcy
140 East 300 South
P.O. Box 45288
Salt Lake City, Utah 84145-0288

The above addresses are correct as of the effective date of these Local Rules. The party providing notice is responsible for obtaining any new addresses.

MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

(a) **Attendance**. The court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case or from a Chapter 7 case to a Chapter 13 case, if the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under § 341 of the Code. If the debtor or the debtor's attorney fails to appear, the trustee must file a notice of failure to comply and serve it on the debtor and the debtor's attorney. If an objection to the trustee's notice is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. In a joint case where only 1 spouse appears, the case will be bifurcated and the appropriate dismissal entered. In a Chapter 7 case, the objection must also move for an extension of the time fixed under Fed. R. Bankr. P. 4007(c) and 4004(a) for filing a complaint under §§ 523(c) and 727 of the Code. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). If a hearing on the objection is not held within 40 days after the objection is filed, the clerk must enter the order of dismissal, unless the court orders otherwise.

(b) **Telephonic Appearance at Meeting of Creditors**. Under extenuating circumstances which prevent a debtor from appearing in person, a debtor may file a motion seeking permission to appear by telephone at a creditors' meeting required under § 341 of the Code. Extenuating circumstances may include military service, incapacitating condition, or incarceration. The motion must be filed and served on the trustee and the United States trustee no later than 10 days prior to the scheduled meeting, and may be ruled upon without a hearing. If the motion is granted, the debtor must also serve a copy of the order

allowing a telephonic appearance on the trustee and the United States trustee. The debtor must contact the trustee to determine the time, date and location for the telephonic appearance. The debtor is responsible for any costs associated with conducting a telephonic appearance.

(c) **Debtor Identification.** An individual debtor must provide a picture identification card and proof of the debtor's Social Security number to the Trustee at the § 341 meeting.

(d) **Information Requested by the Trustee or by the United States Trustee at the Meeting of Creditors.** The debtor must produce the following materials no later than 10 days after a written request by the trustee or United States trustee:

- (1) bank statements, canceled checks, and checkbooks; and
- (2) any other documents, recorded information, or other information reasonably necessary for the effective administration of the estate.

(e) **Costs of Meeting Facilities.** If the circumstances of a particular case require that the meeting of creditors be held somewhere other than the usual facilities, the estate of the debtor will be responsible for the rent and other appropriate costs associated with conducting the meeting in an alternate facility.

(f) **Notice of Rescheduled Meetings of Creditors.** If the initial meeting of creditors is rescheduled, the clerk must give notice of the new date and time of the meeting unless otherwise directed by the court.

RULE 2004-1

EXAMINATIONS UNDER RULE 2004

In either of the following circumstances the clerk may enter an order granting a motion under Fed.

R. Bankr. P. 2004 without prior notice or hearing:

- (1) if the movant represents that the party to be examined will receive not less than 15 days written notice of the examination; or
- (2) if the movant and the party to be examined have stipulated in writing to the examination.

RULE 2081-1 Standing Order # 2

CHAPTER 11 - GENERAL

(a) **Initial Financial Reports and Other Documents.** Not later than 20 days after filing a Chapter 11 petition, the Debtor must provide the United States trustee with an initial financial report in the form approved by the United States trustee, and evidence of any permits, licenses of operations, and any policies of insurance maintained by the Debtor, unless the Court orders otherwise.

(b) **Monthly Financial Reports.** Not later than 15 days after the end of each month the debtor in possession or trustee must file with the court a monthly financial report in the form approved by the United States trustee and serve a copy upon the United States trustee. Each report must bear an original signature of either the debtor in possession or the trustee. The duty to file these reports terminates upon confirmation of a plan, or upon conversion or dismissal of the case.

(c) **Post-Confirmation Summary Report.** A reorganized debtor, trustee, or other entity responsible for consummation of a plan must file a one-time summary report within 90 days after entry of a confirmation order which must include the following:

(1) the dollar amounts of administrative expenses for fees for the attorney for the debtor, attorney for the trustee, the trustee, other professionals, and out-of-pocket expenses;

(2) the dollar amounts of priority, secured and unsecured claims;

(3) the dollar amounts of plan payments to priority, secured, and unsecured creditors;

(4) the percentage dividend being paid to unsecured creditors without priority;

and

(5) the estimated date that a final decree will be entered.

Failure to comply with this subsection constitutes grounds for dismissal of the case.

RULE 2082-1

CHAPTER 12 - GENERAL

(a) **Monthly Financial Reports.** Not later than 15 days after the end of each month, the debtor must file with the court a monthly financial report in the form approved by the United States trustee and serve a copy upon the Chapter 12 trustee. Each report must bear an original signature of the debtor. The debtor's duty to file these reports terminates upon confirmation of a plan, or upon conversion or dismissal of the case.

(b) **Filing of Chapter 12 Plan.** The court may dismiss a Chapter 12 case if the debtor fails to file a plan within the time provided in § 1221 of the Code. If the debtor does not file a plan timely, the Chapter 12 trustee should file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection to the trustee's notice is not filed within 20 days after service of the notice, the clerk should enter an order dismissing the case. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). If a hearing on the objection is not held within 40 days after the objection is filed, the clerk must enter the order of dismissal, unless the court orders otherwise.

(c) **Payments.** Payments under a confirmed plan must be paid by certified funds or money orders made payable as directed by the Chapter 12 trustee. The debtor may make and the trustee may accept payments in furtherance of a plan prior to confirmation. Such payments must be disbursed under a confirmed plan or further order of the court, and may be subject to a charge for the trustee's expenses upon conversion or dismissal of the case, or confirmation of a plan.

(d) **Attorney's Fees.** All Chapter 12 plans must contain a statement of attorney's fees paid

and to be paid.

(e) **Monthly Payments.** Beginning at the first meeting of creditors and continuing each month thereafter until confirmation of a plan, the debtor may be required to pay to the Chapter 12 trustee the actual and necessary expenses of the administration of the case as allowed by the court, or a minimum court-approved dollar amount to be fixed by the trustee, whichever is greater.

CHAPTER 13 - GENERAL

(a) **Chapter 13 Plan Payments.** Payments under § 1326 of the Code must commence on the first date fixed by the court for the meeting of creditors, and must be made by certified funds or money order made payable as directed by the trustee.

(b) **Failure to Make Payments.** If a debtor fails to make the first payment required by subsection (a) of this rule, the trustee must file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, if a hearing on the objection is not held within 40 days after the objection is filed, the clerk must enter the order of dismissal.

(c) **Postpetition Child Support, Alimony, Maintenance Payments Deemed Voluntary.** Unless a Chapter 13 debtor on the petition date, or such later time as the court allows, files with the court, the trustee, and the requisite state office of recovery services a notice setting forth the debtor's intent to terminate postpetition child support, alimony, maintenance payments or income withholding, the debtor will be deemed as of the date of the petition to have stipulated as follows: (1) that any child support, alimony, or maintenance obligation that matures postpetition, whether continuing or delinquent and whether paid directly by the debtor or collected by means of income withholding under state law, is voluntarily made by the debtor under the debtor's budget of postpetition expenses;

and (2) that any collection of such obligations will not constitute grounds for compensatory, injunctive or punitive relief against the collecting party for any violation of the provisions of § 362 of the Code.

This rule does not apply to any child support, alimony, or maintenance obligation that matures and becomes delinquent postpetition and that the debtor and a state office of recovery services have agreed in writing will be treated as a prepetition obligation included in the debtor's plan.

(d) **Eligibility Hearing.** A party must file and serve a motion to dismiss a Chapter 13 case under § 109(e) of the Code not later than 30 days after the claims bar date. A hearing on the motion must be held no later than 10 days before the date set for the plan confirmation hearing.

(e) **Distribution in Discontinued Preconfirmation Cases.** If a case is converted or dismissed prior to confirmation, the trustee is authorized to apply the debtor's plan payments to pay: (1) an allowed expense fee to the standing Chapter 13 trustee; (2) adequate protection payments stipulated to by the parties or ordered by the court; (3) any allowed administrative expenses; and (4) the balance of such funds will be paid by check made payable to and sent to the debtor(s).

(f) **Consent Calendar.** A Chapter 13 case may be set for hearing on the court's consent calendar upon submission by the debtor to the trustee of such information necessary to enable the trustee to recommend to the court confirmation of the plan by consent. Debtors and the debtors' attorneys are excused from confirmation hearings set on the court's consent calendar. The court may strike a consent hearing if it appears that an order confirming the plan should be entered. The hearing on a plan not confirmed by consent is continued to the date set for the contested confirmation hearing calendar set forth on the notice of the meeting of creditors under § 341 of the Code, or such other date as the court may direct.

RULE 2090-1

ATTORNEYS - ADMISSION TO PRACTICE

(a) **Bar of the Court.** The bar of this court consists of attorneys admitted to practice in the United States District Court for the District of Utah under DUCivR 83-1.1(b) and (c).

(b) **Other Permitted Appearances.** Attorneys who are not active members of the Utah State Bar but who are members in good standing of the bar of another state or of the bar of any federal court, may appear for the purpose of attending and participating in a meeting of creditors without leave of the court. In all other matters, such attorneys may be admitted in a case by order of the court. Applicants must present a written or oral motion for admission made by an active member in good standing of the bar of this court. For nonresident applicants, unless otherwise ordered by the court, the motion may be granted only if the applicant associates an active local member of the bar of this court with whom opposing attorneys and the court may communicate regarding the case or proceeding and upon whom papers must be served. All applicants must also comply with DUCivR 83-1.1(d)(1).

(c) **Participation of a Local Attorney.** If an attorney admitted to the bar of this court is a nonresident, he or she must associate a local attorney who must sign the first pleading filed and who must continue in the case or proceeding unless another active local member of this court's bar is substituted or unless released by the court. If the nonresident attorney fails to respond to any order of the court, for appearance or otherwise, the associated local attorney will have the responsibility and full authority to act for and on behalf of the client in all matters in connection with the case or proceeding, including hearings, pretrial conferences, and trial.

(d) **Attorneys for the United States.** Attorneys representing the United States government or any agency thereof and who reside within this district are required to be admitted to this court's bar as set forth in DUCivR. 83-1.1(f).

(e) **Parties Appearing Without an Attorney.** Any party proceeding on its own behalf without an attorney will be expected to be familiar with and to proceed in accordance with the rules of practice and procedure of this court and with the appropriate federal rules and statutes that govern the action in which such party is involved.

(f) **Standards of Professional Conduct.** All attorneys practicing before this court, whether admitted as members of the court's bar, admitted pursuant to subsection (b) of this rule, or otherwise permitted by the court, are governed by and must comply with these Local Rules and, unless otherwise provided, with the Utah Rules of Professional Conduct, as revised and amended, and the decisions of this court interpreting those rules and standards.

(g) **Student Practice.** Any eligible law student who desires to enter an appearance in any case or proceeding must file the applicable forms similar to Appendix VIII, IX and X of the District Court Rules of Practice with this court, must be familiar with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these Local Rules, and must comply with DUCivR 83-1.6 (b), (c), (d) and (e).

RULE 2090-2

ATTORNEYS - REGISTRATION

All members of the bar of this court are required to comply with DUCivR 83-1.2, and to certify they are familiar with these Local Rules.

RULE 2090-3

ATTORNEYS - DISCIPLINE AND DISBARMENT

Upon motion of a party or on its own initiative, the court may impose sanctions on an attorney for violation of these Local Rules. Sanctions may include, but are not limited to, the assessment of costs, attorney's fees, fines, or any combination thereof, against an attorney or a party. A person may also file a complaint under DUCivR 83-1.5(h). The court or a trustee may refer under 18 U.S.C. § 3057 any appropriate matter regarding an attorney's conduct to the United States Attorney's office for action.

RULE 2091-1

ATTORNEYS - SCOPE OF REPRESENTATION, WITHDRAWAL AND SUBSTITUTION

(a) **Scope of Representation.** A debtor's attorney must represent the debtor in all aspects of the case, including the meeting of creditors, adversary proceedings, motions filed against the debtor, and post-confirmation matters. This requirement cannot be modified by agreement. The court may deny fees or otherwise discipline an attorney for violation of this rule.

(b) **Withdrawal and Substitution.** An attorney must file a written application seeking an order to withdraw or be substituted as attorney in any case or proceeding. The application must set forth the reasons therefor, together with the name, address, and telephone number of the client, as follows:

(1) **With Client's Consent.** If the attorney has obtained the written consent of the client, the consent must be filed with the application and the application must be accompanied by a separate proposed written order. The papers may be presented to the court ex parte. The withdrawing attorney must give prompt notice of the entry of the order to the client and to all other parties or their attorneys. An attorney representing a governmental unit is not required to obtain a client's signature to withdraw under this provision.

(2) **Without Client's Consent.** If the attorney has not obtained the written consent of the client, the application must be served upon the client and all other parties or their attorneys. The application must be accompanied by a statement of the moving attorney

certifying that:

(A) the client has been notified in writing of the status of the case or proceeding, including the dates and times of any scheduled court proceedings, pending compliance with any existing court orders, and the possibility of sanctions; or

(B) the client cannot be located or for whatever other reason cannot be notified of the pendency of the application and the status of the case or proceeding.

(c) **Withdrawal and Substitution After Hearing Before the Court or Trial Date is**

Scheduled. An attorney may not withdraw after a hearing before the court has been scheduled or trial date has been set in a case or proceeding, unless:

(1) the application includes an endorsement that is signed

(A) by a substituting attorney indicating that such attorney has been advised of the hearing or trial date and will be prepared to proceed with the hearing or trial; and

(B) by the client indicating that the client is advised of the time and date and will be prepared for the hearing or trial; or

(2) the court is otherwise satisfied, for good cause shown, that the attorney should be permitted to withdraw.

(d) **Notification of Substituted Attorney.** An application to substitute attorney must state the address, telephone number, and, where applicable, Utah State Bar identification number of the substituting attorney.

(e) **Responsibilities of Party Upon Removal.** Whenever an attorney withdraws, dies, is

removed or suspended, or for any other reason ceases to act as attorney of record, the party represented by such attorney must notify the clerk of the appointment of another attorney or of his or her decision to appear without an attorney within 20 days or before any further court proceedings are conducted. If substituting another attorney, the party also must provide the clerk with the current telephone number, address, and, where applicable, Utah State Bar identification number of the substituting attorney. If the party is proceeding without an attorney, the party must provide its address and telephone number to the clerk.

RULE 3003-1

BAR DATE FOR FILING PROOF OF CLAIM OR INTEREST IN CHAPTER 11 CASES

(a) **Bar Date in Chapter 11 Cases.** In a Chapter 11 case, a proof of claim or interest is timely filed if it is filed not later than 90 days after the first date set for the meeting of creditors under § 341 of the Code, or, if filed by a governmental unit, not later than 180 days after the date of the order for relief.

(b) **Notification of Bar Date in Chapter 11 Cases.** Unless otherwise ordered by the court, the clerk's office should state the bar dates for filing proofs of claim or interest on the notice entitled "Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Fixing of Dates" issued in Chapter 11 cases.

RULE 3007-1

OBJECTIONS TO CLAIMS

(a) **Notice of Objection to Claim.** A party objecting to a claim must provide notice to the claimant in accordance with Fed. R. Bankr. P. 3007 and Official Form 20B.

(b) **Response to Objection to Claim.** A response to an objection to a claim must be filed and served not later than 30 days after service of the objection. The court will conduct an evidentiary hearing if a response is timely filed. If a response is not timely filed, the court may sustain the objection without a hearing.

RULE 3022-1 Standing Order #2

FINAL REPORT/DECREE (Ch. 11)

A Chapter 11 plan should set a date, not later than 1 year after the entry of the order confirming the plan, prior to which a final decree closing the case will be entered under § 350 of the Code and Fed. R. Bankr. P. 3022. Not later than 30 days before such date, the reorganized debtor should file, serve upon all interested parties and set for hearing, a motion for a final decree. The motion must set forth evidence of full administration for the purpose of entering the final decree. A party may object to entry of the final decree prior to the date set forth in the plan or prior to the expiration of 1 year from the entry of the order confirming the plan, whichever is earlier. The objection must be served on the reorganized debtor and debtor's attorney and must be set for a hearing. If the plan of reorganization does not provide a date certain for entry of a final decree or if the reorganized debtor fails to timely file a motion for a final decree, the final decree may be entered by the court, on or after 1 year from entry of the order confirming the plan. The decree must specify that the case is closed upon entry of the final decree. The court may extend the time for entry of the final decree upon motion and notice to all parties.

RULE 4001-1

RELIEF FROM AUTOMATIC STAY

(a) **Motions for Relief from Stay.** A motion for relief from the automatic stay must be filed and served, with a notice of hearing, on the debtor, the debtor's attorney, the trustee, those parties designated in Fed. R. Bankr. P. 4001(a)(1), if applicable, and any codebtor and codebtor's attorney. The notice must substantially conform to Official Form 20A and state that objections must be filed and served not later than 15 days after service of the motion.

(b) **Objections to Motions for Relief from Stay.** An objection to a motion for relief from stay must be filed and served not later than 15 days after service of the motion. The objection must admit or deny each allegation of the motion. An allegation is admitted for the purpose of the hearing on the motion unless the objecting party denies the allegation, or sets forth the reason why the party cannot admit or deny the allegation.

(c) **Hearings on Motions for Relief from Stay.** The court will conduct an evidentiary hearing if an objection is timely filed. If an objection is not timely filed, the court may grant the relief requested without a hearing. A party submitting an order where no objection has been filed to the motion must submit an application or declaration stating that there has been no objection filed or served on the movant.

RULE 4001-2

FINANCING MOTIONS AND ORDERS

(a) **Motions.** Except as provided herein and elsewhere in these Local Rules, all financing motions, including cash collateral and financing requests under §§ 363 and 364 of the Code (“Financing Motions”), must be heard by motion filed under Fed. R. Bankr. P. 2002, 4001 and 9014.

(1) **Local Rule 4001-2 Disclosure.** All Financing Motions must recite whether the proposed order and/or underlying cash collateral stipulation or loan agreement contains any extraordinary relief, including that listed in subsections (a)(1)(A) through (a)(1)(G) below, identify the location of any such provision in the proposed order, cash collateral stipulation and/or loan agreement, and state the justification for the inclusion of such provision:

(A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);

(B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of a secured creditor’s prepetition lien or debt or the waiver of claims against the secured creditor without giving parties in interest at least 75 days from the entry of the order and the creditors’ committee, if formed, at least 60 days from the date of its formation to investigate such matters;

(C) Provisions that seek to waive, without notice, whatever rights the estate may have under § 552(b) of the Code;

(D) Provisions that grant immediately to the prepetition secured creditor liens on claims and causes of action arising under §§ 544, 545, 547, 548, and 549 of the Code;

(E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in § 552(b) of the Code;

(F) Provisions that provide disparate treatment for professionals retained by a creditors' committee from that provided for professionals retained by the debtor; and

(G) Provisions that prime any secured lien, without the consent of that lienor.

(2) Summary. All Financing Motions must also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations, and protections afforded under §§ 363 and 364 of the Code).

(b) Interim relief. When Financing Motions are filed with the court on or shortly after the date of the entry of the order for relief, the court may grant interim relief pending review by interested

parties of the proposed financing arrangements to avoid immediate and irreparable harm to the estate.

In the absence of extraordinary circumstances, the court will not approve interim financing orders that include any of the provisions in subsection (a)(1)(A) through (a)(1)(G) of this rule.

(c) **Final Orders**. A final order on a motion under subsection (a) of this Local Rule will be entered only after notice and a hearing under Fed.R.Bankr.P. 4001 and Local Rule 2002-1.

Ordinarily, the final hearing should be held at least 10 days following the organizational meeting of the creditors' committee contemplated by §1102 of the Code.

RULE 4002-1

ADDRESS OF DEBTOR

The debtor must file and serve on the United States trustee, and the trustee, if any, every change of the debtor's address until the case is closed or dismissed.

RULE 5001-1

CLERK - OFFICE LOCATION/HOURS

(a) **Office of Record**. The court's office of record is in the Frank E. Moss United States Courthouse at 350 South Main Street, Salt Lake City, Utah 84101. The court also maintains an unstaffed clerk's office and a chambers/courtroom facility in the Federal Building, 324 25th Street, Ogden, Utah.

(b) **Hours of Business**. Unless the court orders otherwise, the clerk's office is open to the public between the hours of 8:00 a.m. and 4:30 p.m. on all days except Saturdays, Sundays, and legal holidays as set forth below:

- New Year's Day, January 1
- Birthday of Martin Luther King, Jr. (Third Monday in January)
- Presidents' Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Independence Day, July 4
- Pioneer Day, July 24
- Labor Day (First Monday in September)
- Columbus Day (Second Monday in October)
- Veterans' Day, November 11
- Thanksgiving Day (Fourth Thursday in November)
- Christmas Day, December 25

RULE 5003-1 Standing Order #2

THE CLERK'S AUTHORITY

(a) **Orders, Judgments and Other Documents.** The clerk may sign his or her name, unless directed by the court to sign or imprint the court's facsimile signature and enter the following without further directive from the court:

(1) an order entering default for failure to plead or otherwise defend under Fed. R. Bankr. P. 7055;

(2) a subpoena for a party not represented by an attorney;

(3) an order of discharge;

(4) an order of dismissal, as directed by Local Rules 2003-1(a), 2082-1(b), 2083-1(b) and 7041-1, or similar dismissal orders arising from the failure of the debtor to respond to a motion to dismiss; and

(5) any other order or document that does not require approval or order by the court under Fed. R. Civ. P. 77(c).

(b) **Review of Clerk's Actions.** The court may review, suspend, alter or rescind the clerk's actions under this Local Rule.

RULE 5003-2

COURT PAPERS

(a) **Access.** The public records of the court are available for examination in the clerk's office during the hours of business specified in Local Rule 5001-1. Public records may not be removed from the clerk's office by members of the bar or the public except by order of the court, but the clerk or the contract copy center will make and furnish copies of official public court records upon request and upon payment as required by the Bankruptcy Court Miscellaneous Fee Schedule issued in accordance with 28 U.S.C. § 1930(b), and by 28 U.S.C. § 156(c). Access to public records may also be available through the court's Internet site.

(b) **Electronic Filing System** A person may access case information at the court's Internet site by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Only a Filing User may file documents electronically.

(c) **Sealed or Impounded Papers.** Papers ordered sealed or impounded by the court are not public records within the meaning of these Local Rules. Papers ordered sealed must be filed conventionally, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of papers under seal may be filed electronically unless prohibited by law. A copy of the order must be attached to the papers under seal and be delivered to the clerk.

FILING REQUIREMENTS

(a) **Filing of Papers.** All pleadings, motions, proposed orders, and other papers required to be filed with the court should be filed with the clerk at the office of record in Salt Lake City, defined in Local Rule 5001-1(a), during the hours of business set forth in Local Rule 5001-1(b); provided, however, that when court is in session elsewhere in the district, such papers may be filed with the clerk or with the court at the place where court is being held. Pleadings and other case related papers may also be filed after business hours at such other facility as the court makes available. In extraordinary circumstances, the court may permit the filing of such papers with a judge.

(b) **Petitions, Schedules, Statements, and Plans.**

(1) **Dismissal of Voluntary Case for Late Filing of Certain Papers.** The court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case or from a Chapter 7 case to a Chapter 13 case, if the debtor fails to file a list of creditors' names and addresses, verified schedules and statement of financial affairs, a list of equity security holders, or a Chapter 13 plan within the time provided by Fed. R. Bankr. P. 1007 and 3015. If a debtor does not file the papers timely, the United States trustee or case trustee must file a Section 341 Meeting Report indicating the failure to comply and serve it on the debtor and debtor's attorney. If an objection to dismissal is not filed within 20 days after service of the Section 341 Meeting Report, the clerk must enter an order dismissing the case. If an objection is timely filed, the dismissal is stayed. The objecting party must set a hearing and give notice to parties in

interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 40 days after the objection is filed.

(2) Papers and Number of Copies Required. In accordance with Fed. R. Bankr. P. 1007, the papers listed below must be filed in voluntary cases in addition to the lists required by subsection (c) of this rule. Filing Users are excused from providing copies of papers filed electronically.

Chapter 7

Petition, original and 2 copies;
Statement of financial affairs, original and 2 copies;
Schedules A through J, original and 2 copies;
Statement of intention (if required under § 521 of the Code), original and 2 copies;
and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and 2 copies.

Chapter 11

Petition, original and 3 copies;
Statement of financial affairs, original and 3 copies;
Schedules A through J, original and 3 copies;
List of creditors, excluding insiders, holding the 20 largest unsecured claims, original and 3 copies;
List of equity security holders; and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and 3 copies.

Chapter 12

Petition, original and 1 copy;
Statement of financial affairs, original and 1 copy;
Schedules A through J, original and 1 copy;
List of equity security holders (if the debtor is a corporation or a partnership),

original and 1 copy; and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and 1 copy.

Chapter 13

Petition, original and 1 copy;
Schedules A through J, original and 1 copy;
Statement of financial affairs, original and 1 copy;
Chapter 13 plan and plan summary, original and 1 copy; and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and 1 copy.

(c) **List of Creditors and Equity Security Holders.** The debtor must file a list of creditors and, if applicable, a list of equity security holders, in the manner prescribed by the clerk's office to facilitate the use of automated equipment.

(d) **Cover Sheets in Contested Matters.** Unless papers are filed electronically, a properly completed amendment cover sheet must be filed with the clerk with each amendment to a petition, statement of financial affairs, schedule, list of creditors, Chapter 12 or Chapter 13 plan, or other document required by the court. A properly completed civil cover sheet must be filed with the clerk with each notice of appeal and motion to withdraw the reference. Copies of the appropriate cover sheets may be obtained from the clerk.

(e) **Date-Stamped Copies.** A party may, at the time of filing, present to the clerk a copy of the paper filed and request the clerk to imprint the clerk's date stamp on the copy. The date-stamped copy is prima facie evidence that the original was filed with the clerk on the date indicated by the clerk's stamp.

(f) **Facsimile Filing.** Papers transmitted to the court via facsimile are not acceptable for filing, but papers with facsimile signatures may be submitted for filing in connection with declarations, affidavits

and verifications, so long as the paper bearing the original signature is filed within 3 business days after the filing of the paper with the facsimile signature.

RULE 5005-2

FILING PAPERS- ELECTRONIC FILING

(a) **Assignment to Electronic Filing System.** The court will designate which cases and proceedings will be assigned to the Electronic Filing System.

(b) **When Electronic Filing is Required.** Except as expressly provided or in exceptional circumstances, a Filing User should file all petitions, motions, memoranda of law, or other pleadings and documents required to be filed in connection with a case or proceeding assigned to the Electronic Filing System electronically. Notwithstanding the foregoing, attorneys and others who are not Filing Users are not required to electronically file papers in a case or proceeding assigned to the Electronic Filing System.

(c) **Eligibility and Registration of Filing Users and Applicable Rules.** Attorneys admitted to the bar of this court (including those admitted under Local Rule 2090-1(b)), United States trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and individuals as the court deems appropriate, may register as Filing Users of the court's Electronic Filing System. No entities, such as law firms or corporations, may be Filing Users. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court, and an agreement of the Filing User to comply with the court's posted usage protocols.

(1) **Unrepresented Parties.** An individual in a pending case or proceeding who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for the purposes of the case or proceeding. Registration is in a form prescribed by the clerk and

requires identification of the case or proceeding as well as the name, address, telephone number and Internet e-mail address of the individual. If, during the course of the case or proceeding, the individual retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the individual's registration as a Filing User upon the attorney's appearance.

(2) Waiver and Consent. Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes: (A) waiver of the right to receive notice by first class mail and consent to receive notice electronically; (B) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004; and (C) consent to abide by the court's posted usage protocols. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

(3) Log-in and Password. Once registered under subsection (c) of this rule and training is complete, the Filing User will receive notification of a user log-in and password. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(4) Suspension and Termination. The court may temporarily suspend a Filing User's use of the Electronic Filing System for cause without notice and a hearing. After notice and a hearing, the court may terminate a Filing User's use of the Electronic Filing System for cause, including abuse of the Electronic Filing System or failure to comply with these Local Rules or the court's posted usage protocols, and impose such sanctions as are appropriate.

(5) Withdrawal. Once registered, a Filing User may withdraw from participation in

the Electronic Filing System by providing the clerk with written notice of the withdrawal.

(6) Registration Expiration. The court may give Filing Users notice that if they do not renew their registration within 60 days of the date of the notice, their passwords will expire and their ability to utilize the Electronic Filing System will terminate.

(d) Consequences of Electronic Filing. A Filing User whose password is used to file a petition, pleading, motion, claim or other document thereby certifies that the Filing User, whether an attorney or a party appearing without an attorney, has authorized the filing.

(1) Filing, Entry on the Docket, and Official Record. Electronic transmission of a document to the Electronic Filing System consistent with these Local Rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Bankr. P. 5003. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed, unless the court orders otherwise. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

(2) Deadlines. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

(e) Attachments and Exhibits. Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing. A Filing User must

submit as exhibits or attachments only those excerpts of the referenced documents that are germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or to file the complete document conventionally. Responding parties may timely file additional excerpts electronically or complete documents conventionally that they believe are germane.

(f) **Retention Requirements.** Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until 5 years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.

(g) **Signatures.** The user log-in and password required to present documents on the Electronic Filing System are the Filing User's signature for all purposes, including 18 U.S.C. § 151 *et seq.*, 28 U.S.C. § 1746, all sections of the Bankruptcy Code, Fed. R. Bankr. P. 9011 and all other provisions of the Federal Rules of Bankruptcy Procedure, and the Local Rules. Each document filed electronically should indicate that it has been electronically filed, and it must include a caption in compliance with Local Rule 9004-1(a). The name of the Filing User under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear in the signature block, or by a graphical signature.

(1) **Unauthorized Use.** No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(2) **Multi-Signature Documents.** Documents requiring signatures of more than 1 party must be electronically filed either by: (A) submitting a scanned document containing all necessary signatures; (B) representing the consent of the other parties on the document; (C) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by those parties no later than 3 business days after filing the document; or (D) in any other manner approved by the court on a case by case basis.

(h) **Technical Failures.** A Filing User or other party whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

RULE 5005-3

FILING PAPERS - SIZE AND FORM OF PAPERS

(a) **Size.** The original of all pleadings, motions, and other papers presented for filing must be on 8-1/2 x 11 inch white paper of good quality, with a top margin of not less than 1-1/2 inch, a left-hand margin of not less than 1 inch, flat and unfolded, and plainly typewritten or printed in not less than 12 point type on only one side of each page. All orders presented for filing must have a top margin of not less than 2-1/2 inches on the first page.

(b) **Form.** Originals and copies of all papers must be double-spaced except for quoted material, footnotes, and form documents approved by the court. Each page must be numbered consecutively at the bottom of the page. This format may vary to comply with any applicable forms adopted by this court or prescribed by the Judicial Conference of the United States. Service copies may not be reduced by more than 2 reduced pages per printed side.

(c) **Electronic Filing.** Filing Users who file documents electronically pursuant to these Local Rules are excused from the provisions of Local Rule 5005-3(a) requiring that said documents be in paper form.

RULE 5072-1

DECORUM

(a) **Conduct.** Attorneys and parties should conduct themselves in bankruptcy proceedings, including meetings of creditors and discovery proceedings, in a civil and professional manner.

(b) **Courtroom Conduct of Attorneys.**

(1) Unless the court permits otherwise, only 1 attorney for each party may examine or cross-examine a witness and not more than 2 attorneys for each party may argue the merits of the action.

(2) To maintain decorum in the courtroom when court is in session, attorneys must abide strictly by the following rules, unless the court permits otherwise:

(A) Attorneys must stand when addressing the court and when examining and cross-examining witnesses.

(B) Attorneys must not address questions or remarks to an opposing attorney without first obtaining permission from the court. Appropriate and quiet informal consultations among attorneys off the record are not precluded if this does not delay or disrupt the progress of the proceedings.

(C) The examination and cross-examination of witnesses must be limited to questions addressed to witnesses. Attorneys must not make statements, comments, or remarks prior to asking a question or after a question has been answered.

(D) In making an objection, an attorney must state plainly and briefly the

specific ground for an objection and must not engage in argument unless requested or permitted by the court.

(E) Only 1 attorney for each party may object to the testimony of a witness being questioned by an opposing party. The objection must be made by the attorney who has conducted or is to conduct the examination of the witness.

(F) Attorneys must examine a witness from the attorney's table or the lectern, unless necessary to approach the witness or the clerk's desk to present or examine an exhibit.

(c) **Courtroom Argument.** The court may determine the length of time and the sequence of final arguments of the parties. The party having the primary burden of proof must open and close the final arguments unless the court directs otherwise.

RULE 5080-1 Standing Order #2

FEES - GENERAL

(a) **Payment of Fees.** As authorized by § 1930 of title 28 of the United States Code, the clerk must collect filing and other fees as prescribed by the Judicial Conference of the United States. All papers filed with the court must be accompanied by the appropriate fee. Fees may be paid in cash, money order, cashier's check, credit card, or a check drawn on the account of the filing attorney made payable to "Clerk, U.S. Bankruptcy Court." Checks from debtors will not be accepted.

(b) **Dishonored Payments.** If a payor's check is dishonored, or if a credit card payment that was initially accepted is rejected, the payor's name will be placed on the court's dishonored payment register for a period of 3 years. A payor whose name appears on the register will have check or credit card privileges revoked and must pay all fees in cash, money order, or cashier's check. The payor will also be required to pay the dishonored check fee or any other related fee authorized by the Judicial Conference of the United States. A payor's name may be removed from the register upon presentation to the clerk of a letter from the drawee bank or credit card provider indicating that the check was dishonored or credit card payment rejected due to bank or provider error. Alternatively, a payor's check or credit card privileges will be reinstated upon posting an appropriate bond with the court. The payor's name will be removed from the court's dishonored payment register after 1 year of posting bond if the payor has not tendered any checks during that time that have been dishonored and if all credit card payments have cleared.

RULE 5090-1

VISITING JUDGES

In all matters assigned to a visiting judge, parties must keep the assigned scheduling clerk informed of developments affecting settlements, postponements, or lengths of time needed before the court. A party must report any developments no later than 5 business days before the date the matter is scheduled before the court.

RULE 6005-1

APPRAISERS AND AUCTIONEERS

(a) **General.** This court may appoint any number of standing auctioneers. The United States trustee must maintain a list of all current appointed standing auctioneers.

(b) **Appointment.** To be appointed as a standing auctioneer, an auctioneering company, whether a sole proprietorship, partnership, or corporation must show, by declaration submitted to the United States trustee, that at least 1 person employed by such company has met the following qualifications:

(1) The candidate has 3 or more years of experience as an active auctioneer during the 4 year period prior to making the application. “Active auctioneer” experience is defined as devoting the majority of such person's work time to the auctioneering business, including the preparation for, promoting of, and conducting of auctions;

(2) The candidate is duly licensed by a state, municipality, or some other governmental entity;

(3) The candidate is at least 21 years of age;

(4) The candidate has not been convicted of any felony or misdemeanor involving forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offenses;

(5) The auctioneering company maintains property damage and theft coverage of no less than \$100,000, or in a higher amount if requested by the United States trustee. The policy must cover only estate property;

(6) The auctioneering company maintains an on-site liability insurance policy with limits for bodily injury of at least \$100,000 per person and \$300,000 per occurrence; and

(7) The auctioneering company has posted or will post with the United States trustee a \$100,000 bond in favor of the United States and conditioned on the faithful performance of its official duties.

(c) **Letters of Reference.** In addition to the declaration required under subsection (b) of this rule, the candidate must submit letters of reference from at least 2 individuals, other than relatives, who have personal knowledge of the candidate's honesty, truthfulness, and good repute as an auctioneer. If the applicant meets the requirements of this rule, the United States trustee may certify the applicant to the list of current standing auctioneers.

(d) **Effect of Appointment.** Trustees may, subject to the limits of § 327(a) of the Code, use any of the standing auctioneers to liquidate personal property of the estate, without further permission of the court. The fact that an auctioneer has been certified to the list of standing auctioneers should not be construed as an order directing the trustees to employ the auctioneer. Trustees retain the privilege of selecting, subject to the requirements of § 327 of the Code, auctioneers and others to serve the estate.

(e) **Procedure for Sales by Appointed Standing Auctioneers.** The following procedures apply to all sales held by a standing auctioneer:

- (1) The auctioneer must comply with any order regarding the sale;
- (2) The auctioneer must give appropriate public notice of the sale and give the trustee evidence of the notice with the final accounting;
- (3) The auctioneer must not, without the trustee's consent, incur expenses for

transporting property. Unless otherwise agreed or ordered, the debtor must transport property to the auctioneer;

(4) All sales must be for cash, unless the trustee directs otherwise; and

(5) Immediately after the sale, the auctioneer must forward the proceeds, less a commission, to the trustee with a full accounting.

(f) **Commissions.** The commission of any standing auctioneer must not exceed 15% of the gross proceeds of the sale, with the exact rate to be negotiated by the trustee and the standing auctioneer on a case-by-case basis.

(g) **Expenses.** Notwithstanding the limitation on compensation set forth in subsection (f), if a standing auctioneer, at the express direction of the trustee, incurs expenses related to the sale of property, he or she is entitled to reimbursement for actual expenses out of the estate.

(h) **Removal and Resignation.**

(1) **General.** A standing auctioneer must notify the court and the United States trustee immediately if he or she no longer qualifies for certification to the list of standing auctioneers. A standing auctioneer may tender his or her resignation at any time by submitting it in a writing to the United States trustee. In that event, the United States trustee must remove the name from the list and notify panel trustees.

(2) **Removal for Cause.** The court may remove any standing auctioneer for cause.

(i) **Hearings on Sales Conducted by a Standing Auctioneer.** A hearing scheduled on a sale to be conducted by a standing auctioneer may be stricken if no objection to the sale is timely filed.

RULE 6007-1

ABANDONMENT

The trustee or debtor in possession is relieved of the notice requirement imposed by Fed. R. Bankr. P. 6007(a) where the property to be abandoned does not exceed \$2,500 in total value. A general notice of abandonment given orally by the trustee at a first meeting of creditors in a Chapter 7 case, is, absent an objection made within 15 days, sufficient notice of any abandonment determined by the trustee to be appropriate thereafter.

TAX RETURNS AND TAX REFUNDS

(a) **Tax Requirements in Chapter 11, 12 and 13 Cases.** Debtors in possession, Chapter 11 trustees, and Chapter 12 and 13 debtors, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not employers are required to comply only with subsection (6) below.

(1) **Federal Taxes.** The debtor, debtor in possession or the trustee must comply with the Internal Revenue Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the making of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) **State Taxes.** The debtor, debtor in possession or the trustee must comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) **Trust Accounts.** Within 20 days after the petition date, the debtor in possession or trustee must open separate bank trust accounts for the Internal Revenue Service and for each applicable state and local taxing authority for all tax deposits. Only the tax deposits due each entity

are to be made into these trust accounts as they accrue each pay period. A Chapter 12 or 13 debtor must provide the applicable trustee proof of such trust accounts at the § 341 meeting.

(4) Notification. The debtor in possession or trustee should notify the Internal Revenue Service and each state or local taxing authority of the location and account numbers of the respective trust accounts opened under subsection (a)(3) of this rule. The notices should be sent within 5 days after the date the account is opened. Notices to the Internal Revenue Service, the Utah State Tax Commission, and the Utah Department of Workforce Services must be mailed or delivered to addresses cited in Local Rule 2002-1(f).

(5) State Deposit Verification. The debtor, debtor in possession or trustee must, if applicable, file the Utah State Tax Commission's Verification of Taxpayer Deposit at the address shown in Local Rule 2002- 1(f) within 5 days after making the required deposit.

(6) Filing and Payment. The debtor, debtor in possession or trustee must: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of Workforce Services should be delivered to the addresses stated in Local Rule 2002-1(f), not to the regular addresses for filing the returns and reports.

(b) Tax Returns in Chapter 12 Cases. The Chapter 12 debtor must, at least 30 days before the first day required by law for the filing of the debtor's federal tax return(s), forward to the trustee

a full and complete copy of the federal tax return(s) for each preceding year or portion thereof while the case is pending.

(c) **Tax Returns in Chapter 13 Cases.** The Chapter 13 debtor must, at least 90 days after the initial meeting of creditors under § 341 of the Code, file any past and currently due tax returns. If the debtor fails to do so, the trustee or taxing authority may file a motion to dismiss and serve it on the debtor and the debtor's attorney. If an objection to the motion to dismiss is not filed within 20 days after service of the motion, the clerk must enter an order dismissing the case. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, if a hearing on the objection is not held within 40 days after the objection is filed, the clerk shall enter the order of dismissal.

(d) **Modification of the Automatic Stay for Certain Assessments and Refunds of Taxing Entities.** Unless a party in interest objects and the court orders otherwise, the stay of § 362 of the Code is modified to provide for the following assessments and refunds in any case filed in this district. The Internal Revenue Service, Utah Tax Commission, and the Utah Department of Workforce Services are authorized to:

- (1) assess tax liabilities reflected on voluntary filed tax returns and tax returns prepared under authority of applicable statutory provisions; and
- (2) make refunds in the ordinary course of business to debtors who have filed cases under Chapter 9, 12 or 13, to trustees appointed in Chapter 7 and 11 cases, or, if a trustee has not been appointed in a Chapter 11 case, to the debtor in possession.

RULE 7003-1

COVER SHEETS IN ADVERSARY PROCEEDINGS

A properly completed adversary proceeding cover sheet must be filed with the clerk at the commencement of each adversary proceeding. Unless documents are filed electronically, a properly completed civil cover sheet must be filed with the clerk with each notice of appeal and motion to withdraw the reference. Copies of the appropriate cover sheets may be obtained from the clerk.

RULE 7005-1

FILING OF DISCOVERY MATERIALS

In accordance with Fed. R. Civ. P. 5(d) and Fed. R. Bankr. P. 7005, disclosures under Fed. R. Civ. P. 26(a)(1) or (2) and Fed. R. Bankr. P. 7026, deposition transcripts and the following discovery requests and responses must not be filed until they are used in a case or proceeding or the court orders filing: (1) interrogatories, (2) requests for documents or to permit entry upon land, and (3) requests for admission. A party must file a notice of service of the foregoing materials on opposing parties. Filing the notice of taking deposition required by Fed. R. Bankr. P. 7030 satisfies the requirement of filing a notice of service with respect to depositions. This rule does not preclude the use of discovery materials at a hearing or at trial or as exhibits to motions. Local Rule 9070-1 governs the custody and disposition of discovery materials introduced as trial exhibits. The originals of all discovery items covered by this rule and not filed with the court must be held by the party propounding them as custodian for the court.

RULE 7016-1

PRETRIAL PROCEDURES

(a) **Initial Pretrial Conference.** After the initial appearance of a defendant, the clerk must notify the parties of the date, time, and place of the initial pretrial conference under Fed. R. Bankr. P. 7016.

(b) **Parties' Planning Conference.** Under Fed. R. Civ. P. 26(f) and Fed. R. Bankr. P. 7026, the parties must confer as soon as practicable and in any event at least 21 days prior to the initial pretrial conference, and must prepare a Report of Parties' Planning Meeting which conforms substantially with Form 35, a copy of which is attached as Appendix A to these Local Rules. No later than 14 days after the parties' planning conference, the parties are jointly responsible for filing Form 35 with the court.

(c) **Scheduling Order.** At the conclusion of the initial pretrial conference, the court will enter a scheduling order in accordance with Fed. R. Bankr. P. 7016. Included in the scheduling order will be modifications of discovery requirements as the court deems appropriate.

(d) **Expedited Adversary Proceeding.** At the initial pretrial conference, if the amount of the controversy is \$15,000 or less, or by consent of the parties, the court may order that the trial be scheduled on an expedited basis. The scheduling order will govern the procedure to be followed before and during an expedited trial.

(e) **Supplemental Pretrial Conferences.** At the request of a party or on the court's own motion, the court may schedule a supplemental pretrial conference to expedite disposition of the adversary proceeding particularly if it involves complex facts or unusual delay.

(f) **Attorneys' Conference.** At a time to be fixed during the initial pretrial conference, or,

if no time is fixed, at least 10 days prior to the final pretrial conference, the attorneys for the parties must hold an attorneys' conference to discuss settlement, a proposed pretrial order, stipulated facts, exhibit list, witness list, and other matters that will aid in an expeditious and productive final pretrial conference and the preparation of an accurate, complete, and definitive pretrial order.

(g) **Final Pretrial Conference.** The court may schedule a final pretrial conference. The trial attorney must attend the final pretrial conference. Preparation for the final pretrial conference should be in accordance with Fed. R. Bankr. P. 7016.

(h) **Pretrial Order.** At the time ordered by the court, the plaintiff must submit to the court for execution a proposed pretrial order approved by all attorneys. The form of the pretrial order should generally conform to the approved form attached as Appendix B to these Local Rules. If the attorneys are unable to agree on a proposed pretrial order, each attorney must state his or her contentions as to the portion of the pretrial order upon which no agreement has been reached. The court will then determine a final form for the pretrial order and advise the parties. Thereafter, the order will control the course of the trial and may not be amended except by consent of the parties and the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged into the order. The court may dismiss an adversary proceeding if the pretrial order is not filed within the time fixed by the scheduling order.

RULE 7024-1

CLAIM OF UNCONSTITUTIONALITY

(a) **An Act of Congress.** When the constitutionality of any act of Congress affecting the public interest is, or is intended to be, drawn in question in any case or proceeding to which the United States, or any of its agencies, officers, or employees is not a party, the attorney for the party raising the constitutional issue must immediately notify the clerk, in writing, specifying the act or the provision which is challenged, with a proper reference to the title and section of the United States Code if the act is included in it, and a description of the claim of unconstitutionality.

Upon receipt of the notice, the clerk, on behalf of the court, must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the United States that the constitutionality of an Act of Congress, title ___, § ___, United States Code (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the United States, nor any of its agencies, officers, or employees, is a party. Under title 28, § 2403(a) of the United States Code, the United States is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.

The clerk must send a copy of the certificate to the United States Attorney for the District of Utah

and provide a copy to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

(b) A Statute of a State. Whenever the constitutionality of any statute of a state affecting the public interest is, or is intended to be, drawn in question in any case or proceeding to which the state or any of its agencies, officers, or employees, is not a party, the attorney for the party raising the constitutional issue must immediately notify the clerk, in writing, specifying the act or the provision which is challenged, with a proper reference to the title and section of the statute, and a description of the claim of unconstitutionality.

Upon receipt of the notice, the clerk on behalf of the court, must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the State of _____, that the constitutionality of an Act of the legislature of the State of _____, title ____, Chapter ____, § ____, (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the State of _____, nor any of its agencies, officers, or employees, is a party. Under title 28, § 2403(b) of the United States Code, the State of _____ is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.

The clerk must send a copy of the certificate to the Attorney General of the state and provide a copy to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no

assignment has been made.

RULE 7026-1

DISCOVERY - GENERAL

(a) **Attorney Managed Discovery.** To curtail undue delay in the administration of justice, the court may refuse to hear any and all motions related to discovery under Fed. R. Bankr. P. 7026 through 7037 relevant to the claim or defense of any party, unless the moving attorney first advises the court in writing that, having conducted personal consultation and having attempted in good faith to resolve differences, the parties are unable to reach an accord on matters to be heard. The statement must also recite the date, time, and place of the consultation, and the names of all participating parties or attorneys.

(b) **Court Managed Discovery.** Upon motion of any party and for good cause, the court may order discovery relevant to the subject matter of the case or proceeding.

(c) **Form of Certain Discovery Documents.** Parties responding to interrogatories pursuant to Fed. R. Civ. P. 33 and Fed. R. Bankr. P. 7033; requests for production of documents or things pursuant to Fed. R. Civ. P. 34 and Fed. R. Bankr. P. 7034; or requests for admission pursuant to Fed. R. Civ. P. 36 and Fed. R. Bankr. P. 7036 shall repeat in full each such interrogatory or request to which the response is made. The parties also shall number sequentially each interrogatory or request to which response is made.

RULE 7041-1

DISMISSAL - VOLUNTARY AND FOR LACK OF PROSECUTION

(a) **Voluntary Dismissal.** Notices of dismissal and stipulations to dismiss submitted under Fed. R. Civ. P. 41, as made applicable under Fed. R. Bankr. P. 7041, should be accompanied by a written order of dismissal.

(b) **Dismissal for Lack of Prosecution.** At any time, the court may issue an order to show cause why an adversary proceeding should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the order to show cause, the court may enter an order of dismissal with or without prejudice, as the court deems proper.

RULE 7052-1

FINDINGS AND CONCLUSIONS

Except as otherwise directed by the court, in all non-jury proceedings, the attorney for each party must prepare and lodge with the court, at least 2 days before trial, proposed findings of fact and conclusions of law consistent with the theory of the submitting party and the facts expected to be proved. Proposed findings must be concise and direct, recite ultimate rather than mere intermediary evidentiary facts, and be suitable in form and substance for adoption by the court.

RULE 7054-1

COSTS - TAXATION/PAYMENT

(a) **Bill of Costs.** Within 20 days after the entry of final judgment, a party entitled to recover costs must file a bill of costs, on a form available from the clerk, and a verification of bill of costs under § 1924 of title 28 of the United States Code, and serve such documents on the attorneys of record of all adverse parties. The bill of costs must clearly and concisely itemize and describe the costs, checks, money orders, or other forms of payment, and must include copies of applicable invoices, receipts, and disbursement instruments. Failure to itemize and verify costs may result in their disallowance.

(b) **Objections to Bill of Costs.** A party objecting to a bill of costs must file an objection, supported by declarations and documentation, and serve the attorney of record for all adverse parties within 10 days after service of the bill of costs. Upon timely objection, a hearing may be scheduled to review the bill of costs and the objection.

(c) **Taxation of Costs.** If no objection is timely filed, the clerk must tax the costs and allow such items as are taxable under law. Costs taxed by the clerk will be included in the judgment or decree.

(d) **Judicial Review.** Taxation of costs by the clerk is subject to review by the court if, under Fed. R. Bankr. P. 7054(b), a motion for review is filed within 5 days after entry of the clerk's action.

RULE 7055-1

DEFAULT - FAILURE TO PROSECUTE

(a) **Judgment by Default Entered by Clerk.** A proposed judgment by default filed in accordance with Fed. R. Bankr. P. 7055 for signature and entry by the clerk in accordance with that rule and Local Rule 5003-1(a)(1) must be accompanied by a declaration that the person against whom judgment is sought is neither an infant or an incompetent person, nor in the armed forces within the meaning of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. § 520(1).

(b) **Judgment by Default Entered by Court.** In all other cases, the party entitled to a judgment by default must apply to the court in accordance with Fed. R. Bankr. P. 7055. Upon application of any party, the clerk may make and file a certificate of default as to any party in default, for the convenience of the court or of the party applying for the default judgment. When the application is made to the court, unless the court orders otherwise, the scheduling clerk, upon request of the movant, must schedule an evidentiary hearing. If the party against whom judgment by default is sought has appeared in the proceeding, the party seeking the default shall give notice of the hearing to the attorney for the party as required by Fed. R. Bankr. P. 7055. With leave of the court, proof may be submitted by declaration, but the court may order further hearing at its discretion.

(c) **Clerk's Action Reviewable.** The actions of the clerk under this rule may be reviewed, suspended, altered or rescinded by the court.

RULE 7056-1

SUMMARY JUDGMENT

(a) **Fact Statement.** A memorandum in support of a motion for summary judgment must begin with a section that contains a concise statement of material facts as to which movant contends no genuine issue exists. The movant must number the factual statements and refer with particularity to the portions of the record supporting the motion.

(b) **Contested Facts.** A memorandum in opposition to a motion for summary judgment must begin with a concise statement of material facts to which the party contends there is a genuine issue. The responding party must number each disputed fact, refer with particularity to the portions of the record upon which the party relies, and, if applicable, state the paragraph number of movant's disputed fact. Material facts of record that are set forth with particularity in movant's statement of facts and that meet the requirements of Fed. R. Bankr. P. 7056 are admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party.

(c) **Filing Deadlines, Length of Memoranda and Reply Memoranda.** A memorandum opposing a motion for summary judgment must be filed and served within 30 days after service of the motion. Memoranda supporting or opposing a motion for summary judgment must not exceed 25 pages in length, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. At movant's discretion, a reply memorandum of no more than 5 pages may be filed and served within 10 days after service of the opposing memorandum. A reply memorandum must be limited to rebuttal of matters raised in the opposing memorandum. No additional memoranda will be considered without leave of court.

The time limitations set forth in this rule may be modified by the court.

RULE 7067-1

REGISTRY FUND

(a) **Court Orders Relating to Deposits.** A party making a deposit under Fed. R. Bankr. P. 7067 in an adversary proceeding or a deposit in a case, may apply to the court for an order to invest the funds in accordance with this rule.

(b) **Registry Funds Invested in Interest-Bearing Accounts.** Upon motion and in accordance with Fed. R. Bankr. P. 7067 or other authority, the court may order the clerk to invest certain registry funds in an interest-bearing account or instrument. When guaranteed government securities are purchased, regardless of the amount invested, the funds require no posting of collateral. All other investments must be collateralized in accordance with the Department of Treasury's regulations. The order must also specify the following:

- (1) the amount to be invested;
- (2) the length of time the funds should be invested and, where applicable, whether they should be reinvested in the same account or instrument upon maturity;
- (3) the name(s) and address(es) and social security number(s) or tax identification number(s) of the designated beneficiary(ies); and
- (4) other information that is appropriate under the circumstances.

(c) **Service Upon the Clerk.** A copy of the order must be served personally upon the clerk or chief deputy clerk, with an additional copy provided to the court's financial department.

(d) **Deposit of Funds.** The clerk must take all reasonable steps to deposit funds into the

specified accounts or instruments within, but not more than, 15 business days after service of a copy of the order.

(e) **Disbursements of Registry Funds.** A party seeking a disbursement of funds must prepare an order for the court's review and signature and must serve the signed order upon the clerk or chief deputy clerk. If applicable, the order should indicate whether, when released by the court, the instruments of investment should be redeemed subject to possible early withdrawal penalties or held until the maturity date. The clerk or chief deputy clerk must prepare the withdrawal documents under the order.

(f) **Management and Handling Fees.** Unless otherwise negotiated by the parties, funds invested under subsection (b) of this rule will be subject to routine management fees imposed by the financial institution and deducted at the time the accounts are closed or the instruments redeemed. In addition, under the miscellaneous fee schedule approved by the Judicial Conference of the United States as set forth in § 1930 of title 28 of the United States Code, the clerk must assess a “Registry Fund Fee.” The fee is to be determined and promulgated by the Director of the Administrative Office of the United States as authorized by the Judicial Conference of the United States.

(g) **Verification of Investment.** A party that obtains an order directing the investment of funds by the clerk should verify that the funds have been invested as ordered.

(h) **Liability of the Clerk.** Failure of a party to personally serve the clerk or chief deputy clerk with a copy of the order, or failure to verify investment of the funds within 10 days after the expiration of the time period set forth in subsection (d) of this rule, will release the clerk from any liability for the loss of earned interest on such funds.

(i) **Cash Bonds.** If a person other than a party posts a cash bond with the clerk, the party

for whom the bond is posted must execute and file an agreement with such person setting forth the intended disposition of the cash deposit by the clerk upon release of the cash bond. No deposit of funds will be allowed unless an order allowing or requiring it has been entered.

RULE 7069-1

EXECUTION OF JUDGMENT

(a) **Domestication of Judgment.** A judgment creditor should domesticate a judgment in the appropriate state court and execute upon the judgment utilizing state law remedies whenever possible.

(b) **Motion to Appear.** A judgment creditor who holds a judgment that cannot be domesticated under state law may move to compel the judgment debtor, or other person in possession of or having information relating to property or other assets that may be subject to execution or restraint, to appear in court and answer questions concerning the property or assets. The movant, on proper declaration, may request that the judgment debtor or other person be ordered to refrain from alienation or disposition of the property or assets in any way detrimental to the movant's interest.

(c) **Hearing Before Bankruptcy Court.** A motion under subsection (b) of this rule may be presented to the court ex parte, and, if granted, the matter calendared for hearing, at which the judgment debtor or other person must appear to be examined. In any case in which the movant seeks a restraint of the judgment debtor, the court must make findings and a report for the district court with a proposed order for restraint which the district court may issue.

(d) **Failure to Appear.** Should the judgment debtor or other person fail to appear as directed, the court may issue such process as is necessary and appropriate, including arrest, to bring the person before the court. If the conduct of the non-responding person is contemptuous, a proper reference must be made by the court to the district court.

(e) **Fees and Expenses.** The movant must tender a witness fee and mileage or equivalent to

any person, with the exception of the judgment debtor, who, under this rule is required to appear in court.

RULE 9004-1

CAPTION - PAPERS, GENERAL

(a) **General.** The caption of papers filed or served after the commencement of a case or proceeding must substantially conform to Official Forms 16A and 16B, as follows:

Attorney Submitting (Utah State Bar No.)
Attorney for
Address
Telephone No.
Facsimile No.
E-Mail Address

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
_____ DIVISION

Name of Debtor	Bankruptcy Case No. _____
Address [see 11 U.S.C. § 342(c)]	Chapter ____
SSN/Tax ID #	Filed Electronically [if applicable]
Name of Adversary	Adversary Proceeding No. ____ [if applicable]
Proceeding [if applicable]	Title of Document (Option 1)

Title of Document (Option 2)

(b) **Title.** The title of each paper must designate the nature of the paper and include a reference to who filed it.

RULE 9006-1
TIME PERIODS

(a) **Time for Filing Motions.** A motion and notice of hearing in a case or proceeding, which is not to be heard ex parte, must be served at least 15 days before the date set for the hearing, unless a different period is fixed by order of the court, by the Federal Rules of Bankruptcy Procedure, or by these Local Rules. A motion for an order fixing a different period may, for cause shown, be made to the court on an ex parte basis.

(b) **Briefing Schedule.** In matters not governed by Fed. R. Bankr. P. 4001(a) or 7056, objections and other responses must be filed and served not later than 15 days after service of a motion and in no case less than 3 business days before the date set for the hearing, or if served by mail, first class postage prepaid, no less than 4 business days before the date set for the hearing. At movant's discretion, a reply memorandum may be filed no less than 3 business days before the date set for the hearing. The movant must schedule a hearing sufficiently in advance to assure that all memoranda are filed no less than 3 business days before the date set for hearing. The time limitations set forth in this Local Rule may be modified by the court.

(c) **Additional Time After Service by Mail, Facsimile or Electronic Means.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party under Fed. R. Civ. P. 5(b)(1)(B), (C), or (D), 3 days must be added to the prescribed period.

RULE 9010-1

ATTORNEYS - NOTICE OF APPEARANCE

(a) **Attorney of Record.** An attorney, or a party not represented by an attorney, who signs and files a petition, pleading or paper, is deemed to have made an appearance in the matter. If an attorney's appearance has not been established previously by the filing of papers in the case or proceeding, the attorney must file a notice of appearance promptly upon undertaking the representation of any party or witness. An attorney of record is responsible in all matters respecting the case or proceeding before and after a judgment, until the closing of the case, until the time for appeal from a judgment or order has expired or a judgment or order has become final after appeal, or until there has been an order permitting withdrawal by or substitution of the attorney in the case or proceeding.

(b) **Notification of Change in Address or Telephone Number.** In all cases and proceedings, attorneys and parties appearing without an attorney must notify the clerk's office of any change in address or telephone number.

(c) **Appearance by Attorney.** A party who has appeared by an attorney, may not appear or act thereafter in its own behalf in the action or take any steps therein, unless an order of withdrawal or substitution is entered by the court after notice to the party's attorney and to parties in interest. However, notwithstanding that a party has appeared or is represented by an attorney, at its discretion, the court may hear a party in open court. An attorney who has appeared of record for any party must:

- (1) represent the party in the action;
- (2) be recognized by the court and by all parties to the action as having control of the client's case; and
- (3) sign all papers that are to be signed on behalf of the client.

RULE 9011-1
PAPERS SIGNED BY AN ATTORNEY

Any paper required to be signed by an attorney that is not signed by an attorney admitted to practice before this court under Local Rule 2090-1 may be stricken.

RULE 9011-2

PARTIES APPEARING WITHOUT AN ATTORNEY

(a) **Attorney Appearance Required.** A corporation, partnership, limited liability company, or unincorporated association may not file a petition or otherwise appear without an attorney in any case or proceeding. Failure to comply with this rule is grounds for dismissal of a case or proceeding, conversion of a case, appointment of a trustee or examiner, judgment by default, or other appropriate sanctions.

(b) **Rules Applicable to Individuals Appearing Without an Attorney.** An individual appearing without an attorney must comply with these Local Rules and, unless otherwise provided, with the Utah Rules of Professional Conduct, as revised and amended, and the decisions of this court interpreting those rules and standards. Any obligation imposed on an attorney by any applicable rule applies to parties appearing without an attorney. Failure to comply with this rule may be grounds for dismissal of a case or proceeding, conversion of a case, appointment of a trustee or examiner, judgment by default, or other appropriate sanctions.

RULE 9013-1
MOTION PRACTICE

(a) **Scope of Rule.** This rule applies to motions in bankruptcy cases and adversary proceedings. The term “motion” means application, request, or other proceeding in the nature of a motion or contested matter in which a party in interest seeks an order from or determination by the court. The term “motion” does not refer to a summons, complaint, appeal, or an ex parte motion.

(b) **Motions.** The movant must file the original motion with the clerk within any applicable time limitation, including the time limitations of these Local Rules, unless the court orders otherwise. A motion must set forth succinctly, without argument, the specific relief sought. The movant must give notice of the motion using Official Form 20A, with alterations as may be appropriate to comply with these Local Rules. The notice must state that objections must be filed and served not later than 15 days after service of the motion.

(c) **Response to Motions.** A party responding to a motion must file a response within any applicable time limitation, including the time limitations of these Local Rules. A response must set forth succinctly, but without argument, the response, including objections, to the motion. If an objection is not timely filed, the court may grant the relief requested without a hearing. A party submitting an order where no objection has been filed to the motion must submit an application or declaration of noncompliance with the motion stating that there has been no objection filed or served on the movant.

(d) **Memorandum of Authorities.** A motion or a response to a motion may be supported by a memorandum of legal authorities subject to the following requirements.

(1) **Concise Memorandum.** A memorandum must concisely state each basis supporting the motion or response with citations to applicable and controlling legal authority.

(2) **Length of Memorandum.** A memorandum, other than for summary judgment, must not exceed 15 pages, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. The procedure for filing an overlength memorandum is set forth in subsection (f) of this rule.

(3) **Citations of Unpublished Decisions.** A memorandum may cite an unpublished

decision from this district, but only if the decision is furnished to the court and parties when the memorandum is filed. Unpublished opinions from other districts may not be cited as authority. Unpublished decisions of this court should be cited as follows: *Smith v. Jones (In re Smith)*, Ch. 7 Case No. 93B-02404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains an index and copies of selected, unpublished opinions from this district.

(4) Citations of Supplemental Authority. When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before the court renders a decision, a party may advise the court by letter, with a copy to all parties, setting forth the citations. The letter must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response must be promptly made and similarly limited.

(5) Reply Memorandum. A reply memorandum is limited to rebuttal of matters raised in the responsive memorandum.

(6) Limitation on Memoranda Considered. Unless otherwise ordered, the court will consider only memoranda filed with motions, responsive memoranda filed by parties in interest, and reply memoranda filed by the movant(s).

(e) Courtesy Copies. Two courtesy copies of each memorandum that exceeds 10 pages in length must be delivered to the chambers of the judge assigned to the case at least 3 days before the time set for hearing on the motion, or at the time the memorandum is filed, if by leave of court the same is filed less than 3 days prior to the hearing on the motion. The front page of all courtesy copies must indicate the date and time of the relevant hearing.

(f) Overlength Memoranda. An order of the court must be obtained to file a memorandum that exceeds the page limitations set forth in subsection (d) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve the request only for good cause shown. Authorized, overlength memoranda must contain the following:

- (1) a table of contents, with page references, setting forth the titles or headings of each

section and subsection;

(2) a statement of the issues related to the precise relief sought;

(3) a concise statement of facts, with appropriate references to the record, relevant to the issues concerning the precise relief sought;

(4) argument, preceded by a summary, containing the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on; and

(5) a short conclusion stating the precise relief sought.

(g) **Certificate of Service.** Unless otherwise ordered, a party must file a certificate of service of a motion or other paper required to be served on other parties. The certificate must be filed with the motion or paper, endorsed upon the motion or paper, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must show the date, place and manner of service, and the names and addresses of the parties receiving the service.

(h) **Service of Documents by Electronic Means.** A Filing User who electronically files a pleading or other document must transmit a “Notice of Electronic Filing” to parties entitled to service or notice under the Federal Rules of Bankruptcy Procedure and these Local Rules. The “Notice of Electronic Filing” must be transmitted by e-mail, hand, facsimile, contract carrier, or by first class mail postage prepaid. Electronic transmission of the “Notice of Electronic Filing” constitutes service or notice of the filed document. A Filing User may use the court’s Electronic Filing System to effectuate service on those parties who have consented to electronic service. Parties who have not consented to electronic notice or service are entitled to receive a paper copy of any electronically filed pleading or other document. Service or notice must be made according to the Federal Rules of Bankruptcy Procedure and these Local Rules. Persons who wish to receive electronic notice should register as a Filing User.

RULE 9014-1
DISCOVERY IN CONTESTED MATTERS

At the request of any party in interest, or on the court's own motion, the court may order that Fed. R. Bankr. P. 7026 applies to a contested matter.

RULE 9015-1

JURY TRIAL

(a) **Demand.** Where a jury trial is demanded in or by endorsement upon a pleading as permitted by the Federal Rules of Civil Procedure, the words “JURY DEMANDED” should be typed in capital letters on the first page immediately below the title of the pleading.

(b) **Applicable Rules.** Fed. R. Civ. P. 38-39, 47-51 and 81(c), insofar as they pertain to jury trials, and DUCivR 83-7.5 apply in cases and proceedings, except that a jury demand made under Fed. R. Civ. P. 38(b) must be filed in accordance with Fed. R. Bankr. P. 5005.

(c) **Consent to Have Trial Conducted by Bankruptcy Judge.** If the right to a jury trial applies, a timely demand has been filed under Fed. R. Civ. P. 38(b), and the bankruptcy judge has been specially designated to conduct the jury trial, the parties may consent to have a jury trial conducted by a bankruptcy judge under § 157(e) of title 28 of the United States Code by jointly or separately filing a statement of consent no later than: (1) the time for filing the Report of Parties’ Planning Meeting under Fed. R. Bankr. P. 7026 and Local Rule 7016-1(b); or (2) if a motion for withdrawal of reference is filed after the demand, within 10 days after service of the motion for withdrawal of reference. Failure to file a consent constitutes an objection by opposing party to a jury trial in the bankruptcy court.

RULE 9019-1

SETTLEMENTS OF ADVERSARY PROCEEDINGS

(a) **General.** The parties should file a written settlement agreement not less than 3 business days before a related hearing. Unless good cause is shown, if the parties settle a matter less than 3 business days before a related hearing, the court may assess costs equally to the parties including, court costs, reporter costs, and the judge's travel costs and per diem, if any. The clerk must bill the parties for the assessed costs and monitor the collection of the costs for the court.

(b) **Settlement of Adversary Proceeding with Trial Date.** In an adversary proceeding for which a trial date has been scheduled, the parties must immediately notify the court of any settlement agreement that resolves all or part of the proceeding. Parties who fail to give adequate notice of the cancellation of a trial date may be assessed costs. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of by agreement in advance of the trial date, jury costs paid or incurred may be assessed against the parties and their attorneys as directed by the court. Jury costs may include attendance fees, per diem, mileage and parking. Jury costs will not be assessed if notice of settlement or disposition of the case is given to the Jury Administrator of the District Court Clerk's Office at least 1 full business day prior to the scheduled trial date.

RULE 9019-2
ALTERNATIVE DISPUTE RESOLUTION

Upon agreement and motion of all parties, the court may refer an adversary proceeding to the Alternative Dispute Resolution Program (“ADR Program”) for mediation under DUCivR 16-2. The motion may be made at the initial pretrial conference or at any other time. An adversary proceeding referred to the ADR Program will remain under the jurisdiction of the court for all purposes, including the entry of any order granting a motion to approve a stipulation resolving the adversary proceeding, dismissing the adversary proceeding or withdrawing the referral to the ADR Program.

RULE 9021-1

PREPARATION AND SUBMISSION OF JUDGMENT OR ORDER

(a) **Separate Document Requirement.** Proposed orders must be prepared and submitted as separate documents, not attached to or included in motions or other papers filed with the court.

(b) **Review and Approval Procedures.**

(1) **Preparation, Service and Approval.** Unless otherwise provided herein or directed by the court, each proposed order and judgment should be prepared in writing by the attorney for the prevailing party, and must be served upon each opposing attorney for review and approval as to form prior to being submitted to the court for review and signature. Approval shall be deemed granted if no objection to the proposed order or judgment is filed within 5 days after personal service or 8 days after service by mail or electronic means.

(2) **Service and Approval Exception.** Unless otherwise directed by the court, the service and approval requirements set forth in subsection (1) do not apply to

(A) any proposed order or judgment on a matter that does not require a hearing and is uncontested, or

(B) any proposed order or judgment submitted in open court at the time of the hearing on the matter to which the proposed order or judgment applies.

(3) **Post Hearing Submission in Adversary Proceeding.** If not submitted in open court at the time of a hearing, an order or judgment arising from a ruling made in open court in an adversary proceeding must be prepared by the attorney for the prevailing party and served as required by subsection (1) upon each attorney appearing in the adversary proceeding, regardless of whether such attorney filed a response to the matter or appeared at the hearing.

(4) **Post Hearing Submission in Contested Matter.** If not submitted in open court at the time of a hearing, an order or judgment arising from a ruling made in open court in a contested matter must be prepared by the attorney for the prevailing party, but need only be served, as required by subsection (1), upon each attorney who either filed a written response to the matter or appeared at the hearing. If the contested matter is in a Chapter 12 or 13 case, a copy of the

proposed order must be served upon the trustee.

(c) **Entry of Court Orders.** A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

All orders, decrees, judgments, and proceedings of the court, including orders submitted in open court, will be filed in accordance with these Local Rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order that has been electronically signed by a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

(d) **Judgment Based Upon a Written Instrument.** Unless otherwise ordered by the court, a judgment based upon a written instrument must be accompanied by the original instrument or a certified copy which must be filed as an exhibit in the case or proceeding at the time judgment is entered. The instrument must be marked as having been merged into the judgment and show the docket number of the case or proceeding. The instrument may be returned to the party filing it upon order of court only as in the case of other exhibits.

(e) **Papers to Accompany Proposed Judgments, Orders or Notices of Appeal.**

A party filing a proposed judgment, order, or notice of appeal must also file a certificate of mailing prepared for use by the clerk.

RULE 9022-1
NOTICE OF JUDGMENT OR ORDER

The clerk must mail or deliver by electronic means to the contesting parties, a copy of a judgment or order showing the date the judgment or order was entered in accordance with Fed. R. Bankr. P. 9022. Immediately upon the entry of an order or judgment in a case or proceeding assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case or proceeding, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The clerk must give notice in paper form to persons who have not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure and these Local Rules.

RULE 9070-1

EXHIBITS

(a) Prior to Trial.

(1) Marking Exhibits. Prior to trial, each party should mark all exhibits to be introduced during trial using exhibit labels (stickers) obtained from the clerk. Plaintiffs use consecutive numbers; defendants use consecutive letters.

(2) Preparation for Trial. After completion of discovery and prior to the final pretrial conference, the attorneys for each party must: (A) prepare and serve on opposing attorneys a list that identifies and briefly describes all exhibits to be offered at trial; and (B) afford opposing attorneys opportunity to examine the exhibits. The parties must list the exhibits in the final pretrial order.

(b) During Trial.

(1) Custody of the Clerk. Unless the court orders otherwise, all exhibits that are admitted into evidence during trial, that are suitable for filing and transmission to the appellate court as a part of the record on appeal, must be placed in the custody of the clerk.

(2) Custody of the Parties. Unless the court orders otherwise, any other exhibit admitted into evidence during trial must be retained in the custody of the party offering it. With approval of the court, photocopies may be substituted for the exhibits once they have been introduced into evidence.

(c) After Trial.

(1) Exhibits in the Custody of the Clerk. If the clerk takes custody of exhibits under subsection (b)(1) of this rule, the exhibits may not be taken from the custody of the clerk until final disposition of the matter, except upon order of the court and execution of a receipt that identifies the material taken. The receipt must be filed in the case or proceeding.

(2) Retrieval from Evidence. With the permission of the clerk, parties should retrieve all exhibits from the custody of the clerk within 30 days after the expiration of the appeal period or after the mandate of the final reviewing court is filed. A party failing to comply with this rule will

be notified by the clerk to retrieve its exhibits and sign a receipt for them. If the exhibits are not timely retrieved, the clerk may destroy or otherwise dispose of them as the clerk may see fit.

(3) Exhibits in the Custody of the Parties. Unless the court orders otherwise, the party offering any exhibit of the kind described in subsection (b)(2) of this rule must retain custody of it and be responsible to the court for preserving it in its condition as of the time admitted, until the time for appeal has expired or after the mandate of the final reviewing court is filed.

(4) Access to Exhibits by Parties. In case of an appeal, any party, upon written request of any other party or by order of the court, must make available any or all original exhibits in its possession, or true copies thereof, to enable another party to prepare the record on appeal.

(5) Exhibits in Appeals. When a notice of appeal is filed, each party must prepare and submit to the clerk a list that designates which exhibits are necessary for the determination of the appeal and in whose custody they remain. Parties who have custody of exhibits so listed must safekeep and transport the exhibits to the appellate court. All other exhibits that are not necessary for the determination of the appeal and that are not in the custody of the clerk must remain in the custody of the respective party, until the mandate of the final reviewing court is filed.

(d) Contested Matters. Prior to hearing, each party should mark all exhibits to be introduced during the hearing using exhibit labels (stickers) obtained from the clerk. Movants use consecutive numbers; respondents use consecutive letters.

RULE 9071-1
PROCEDURAL STIPULATIONS

(a) **Procedural Requirement.** An agreement affecting the course or conduct of a trial or hearing must be in writing, signed by the parties, or made a part of the record by oral stipulation.

(b) **Court Approval - General.** A stipulation between the parties relating to proceedings before the court or modifying a prior order of the court will not be effective until approved by the court.

(c) **Stipulations to Continue Proceedings.** A stipulation between the parties to continue a hearing or trial before the court will not be effective unless approved by the court. A motion for continuance of a trial must be filed with the court not less than 3 business days before the trial. Unless good cause is shown, where a trial continuance is granted less than 3 business days before the trial date, the court may assess costs equally to the parties including, but not limited to, court costs, reporter costs, and the judge's travel costs and per diem, if any. The clerk must bill the parties for the assessed costs and monitor the collection of the costs for the court.

(d) **Continuance of Trial or Hearing Date.** The court may continue a trial or hearing on the date it is to be heard without further notice to parties other than those who appeared at the scheduled trial or hearing. Notice announced on the record at the time of the previously set trial or hearing will suffice.

RULE 9073-1

HEARINGS

(a) **Scope of Rule.** This rule applies to matters requiring a hearing in either a case or an adversary proceeding.

(b) **Setting Hearings.** The movant must obtain a hearing date and time on the court's calendar from the scheduling clerk for the judge assigned to the case. Unless modified by court order, hearings must be scheduled with sufficient time to serve notice and to give parties in interest time to file responsive memoranda as allowed in these Local Rules. The movant must file the motion within 3 business days after the hearing has been set. The court may strike the hearing if the motion is not filed timely without further notice to the movant, and may sanction any party that sets a matter for hearing but fails to timely file the applicable motion. After the hearing has been scheduled, the movant may not add or substitute other motions without the express permission of the scheduling clerk. The court may strike any motion that was added or substituted without permission.

(c) **Order of Hearings.** The court will direct the order in which hearings will be held to promote efficiency and justice.

(d) **Movant Responsible to Give Notice.** The movant is responsible for properly serving the motion and notice to all parties entitled to notice.

(e) **Cancellation of Hearings.** If the movant or other party wishes to cancel a noticed hearing for any reason, the movant or other party must immediately give notice of the cancellation to the scheduling clerk and parties receiving notice. The court may assess costs against the movant or parties who fail to give adequate notice of the cancellation of a hearing.

(f) **Withdrawal of Motion.** A movant or party who does not intend to pursue a motion or objection must immediately file a withdrawal of the motion and notify the scheduling clerk and parties in interest who received the motion. Even if the motion is withdrawn, the movant or party must attend the hearing unless excused by the court. A movant or party who fails to provide notice under this rule or to attend a hearing that has been scheduled may be assessed costs.

(g) **Withdrawal of Response to Motion.** A responding party who does not intend to argue

its position at the hearing, must immediately file a withdrawal of the response, notify the movant of the withdrawal, and notify the scheduling clerk. The court may assess costs against a party for failure to comply with this rule.

(h) **Failure to Appear at a Hearing.** Unless excused by the court, failure to appear at a hearing may be deemed either a waiver of the motion by the movant or a consent to the motion by the responding party.

APPENDIX A

**FORM FOR REPORT OF PARTIES' PLANNING MEETING PURSUANT TO
FED. R. CIV. P. 26(f), FED. R. BANKR. P. 7026 AND LOCAL RULE 7016-1(b)**

[INSERT CAPTION STATED IN LOCAL RULE 9004-1(a)]

1. Parties' Planing Meeting. Pursuant to Fed. R. Civ. P. 26(f), Fed. R. Bankr. P. 7026 and Local Rule 7016-1, a meeting was held on (date) at (place), and was attended by:

a. *[Separately list attorneys representing plaintiff(s) and defendant(s), and pro se parties, and their addresses.]*

2. Initial Disclosure. The parties have discussed the nature and basis of their claims and defenses. The parties *[have exchanged or will exchange by date]* the information required by Fed. R. Civ. P. 26(a)(1) and Fed. R. Bankr. P. 7026.

3. Discovery Plan. The parties jointly propose to the court the following discovery plan:

[Use separate paragraphs or subparagraphs as necessary if the parties disagree.]

a. Discovery is necessary on the following subjects: *[Briefly describe the subject areas in which discovery will be needed]*.

b. All discovery will be completed by no later than *[specify date]*.

c. *[Specify whether discovery will (i) be conducted in phases, or (ii) be limited to or focused upon particular issues. If (ii), specify those issues and whether discovery will be accelerated with regard to any of them and the date(s) on which such early discovery will be completed.]*

d. The following discovery methods will be used:

_____ Interrogatories _____ Requests for Admission

[For both of the above, specify the maximum number that will be served on any party by any other party and the number of days, following service, when responses are due.] _____ Oral Exam Depositions _____ Written Question

Depositions

[For both of the above, (i) specify the maximum number for the plaintiff(s) and the defendant(s), and (ii) indicate the maximum number of hours unless extended by agreement of the parties.]

- e. Reports from retained experts under Fed. R. Civ. P. 26(a)(2) and Fed. R. Bankr. P. 7026 will be submitted on: [specify date] by plaintiff(s); [specify date] by defendant(s).
- f. Supplementations under Fed. R. Civ. P. 26(e) and Fed. R. Bankr. P. 7026 are due: [specify time(s) or interval(s)].

4. Other Items.

[Use separate paragraphs/subparagraphs as necessary if the parties disagree.]

- a. The parties request a final pretrial conference in: [specify month and year].
- b. The cutoff dates for joining additional parties are: [specify date] for plaintiff(s); [specify date] for defendant(s).
- c. The cutoff dates for amending pleadings are: [specify date] for plaintiff(s); [specify date] for defendant(s).
- d. The cutoff date for filing dispositive or potentially dispositive motions is: [specify date].
- e. The potential for settlement is: _____ likely _____ unlikely
_____ cannot be evaluated prior to: [specify date]

- f. Final lists of witnesses and exhibits pursuant to Fed. R. Civ. P. 26(a)(3) and Fed. R. Bankr. P. 7026 are due by: [specify date] from plaintiff(s); [specify date] from defendant(s).
- g. The parties should have [insert number] days after service of final lists of witnesses and exhibits to list objections under Fed. R. Civ. P. 26(a)(3) and Fed. R. Bankr. P. 7026.
- h. This case should be ready for trial by: [specify date].
- i. The estimated length of the trial is: [specify time].
- j. The parties [request/do not request] an expedited trial pursuant to the provisions of Local Rule 7016-1(d).

Dated this ____ day of _____, 200_.

[insert typewritten name of Attorney for Plaintiff(s)]
[insert typewritten address and telephone number of Attorney for Plaintiff(s)]

[insert typewritten name of Attorney for Defendant(s)]
[insert typewritten address and telephone number of Attorney for Defendant(s)]

APPENDIX B
FORM FOR PRETRIAL ORDER REQUIRED BY LOCAL RULE 7016-1(h)

[INSERT CAPTION STATED IN LOCAL RULE 9004-1(a)]

This matter having come before the court on *[insert date]* at a pretrial conference held before *[insert name]* pursuant to Fed. R. Bankr. P. 7016; and *[insert name]* having appeared as counsel for plaintiff and *[insert name]* having appeared as counsel for defendant and *[insert name]* having appeared as counsel for *[insert name]*; the following action was taken: *[State]*.

[Delete foregoing if no final pretrial conference is held.]

1. **JURISDICTION.** The jurisdiction of the court is properly invoked under 28 U.S.C. § 1334. This is a *[core/noncore]* matter within the meaning of 28 U.S.C. § 157(b)(2). If noncore, the parties *[consent/do not consent]* to entry of a final judgment or order by the bankruptcy judge. The jurisdiction of the court is not disputed and is hereby determined to be present.

2. **VENUE.** Venue is laid in the *[insert either Central or Northern]* Division of the District of Utah.

3. **GENERAL NATURE OF THE CLAIMS OF THE PARTIES.**

- (a) Plaintiff's claims. *[State brief summary.]*
- (b) Defendant's claims. *[State brief summary.]*
- (c) Other parties' claims. *[State brief summary for each party.]*

4. **UNCONTROVERTED FACTS.** The following facts are established by admissions in the pleadings or by stipulation of counsel. *[Set out uncontroverted facts, including admitted jurisdictional facts and all other material facts concerning which there is no genuine issue.]*

5. **CONTESTED ISSUES OF FACT.** The contested issues of fact remaining for decision

are: [State]

6. **CONTESTED ISSUES OF LAW.** The contested issues of law in addition to those implicit in the foregoing issues of fact are: [State]

7. **EXHIBITS.** The following, constituting all of the exhibits to be introduced at trial, have been exchanged between the parties:

(a) Plaintiff's exhibits: [List]

(b) Defendant's exhibits: [List]

(c) Exhibits of other parties (if involved): [List]

(d) Exhibits shall be presented to and marked for identification by the clerk prior to the day of trial in accordance with Local Rule 9070-1(a) or (d). The handling of exhibits both during and after trial is governed by Local Rule 9070-1(b) and (c).

8. **WITNESSES.**

(a) In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call as witnesses: [List]; plaintiff may call: [List]; and plaintiff will use the following depositions: [List].

(b) In the absence of reasonable notice to opposing counsel to the contrary, defendant will call as witnesses: [List]; defendant may call: [List]; and defendant will use the following depositions: [List].

(c) In the absence of reasonable notice to opposing counsel to the contrary [*identify additional party*] will call as witnesses: [List]; [*identify additional party*] may call: [List]; and [*identify additional party*] will use the following depositions: [List].

(d) In the event that other witnesses are to be called at the trial, a statement of their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the court at least *[insert]* days prior to trial. This restriction shall not apply to rebuttal witnesses, the necessity of whose testimony reasonably cannot be anticipated before the time of trial.

9. **AMENDMENTS TO PLEADINGS.** There are no requests to amend pleadings. *[or]*

The following order was made regarding amendments to the pleadings: *[State]*.

10. **DISCOVERY.** Discovery has been completed. *[or]* Discovery is to be completed by *[insert date]*. *[or]* Further discovery is limited to *[State]*. *[or]* The following provisions were made for discovery: *[State]*.

11. **TRIAL SETTING.** The adversary proceeding is set for trial on *[insert date]* at *[insert time]*. Estimated length of trial is *[insert number]* days.

12. **SETTLEMENT.** Counsel have conferred respecting settlement of this matter and consider the possibility of settlement *[insert good/fair/poor]*. Trial will not be postponed to allow further settlement negotiations except upon a showing of good cause.

Dated this _____ day of _____, 20____.

United States Bankruptcy Judge

The foregoing proposed pretrial order (prior to execution by the court) is hereby adopted this _____ day of _____, 20____.

[INSERT SIGNATURE LINES, INCLUDING ADDRESS AND
TELEPHONE NUMBERS FOR ALL PARTIES]

APPENDIX C
MONTHLY FINANCIAL REPORT - CHAPTER 11

DEBTOR: _____

MONTHLY FINANCIAL REPORT
CHAPTER 11

CASE NO: _____

For Period _____ to _____, _____

COVER SHEET

Accounting Method Used: ☐ Accrual Basis ☐ Cash Basis

THIS REPORT IS DUE 15 DAYS AFTER THE END OF THE MONTH

Mark One Box For Each
Required Document

Debtor must attach each of the following reports/documents unless the U.S. Trustee has waived the requirement in writing. File the original with the Clerk of Court. Transmit a duplicate, with original signature, to the U.S. Trustee.

Report/Document Attached	Previously Waived	REQUIRED REPORTS/DOCUMENTS
<input type="checkbox"/>	<input type="checkbox"/>	Cash Receipts & Disbursements Statement (Form 2-B)
<input type="checkbox"/>	<input type="checkbox"/>	Balance Sheet (Form 2-C)
<input type="checkbox"/>	<input type="checkbox"/>	Profit and Loss Statement (Form 2-D)
<input type="checkbox"/>	<input type="checkbox"/>	Supporting Schedules (Form 2-E)
<input type="checkbox"/>	<input type="checkbox"/>	Quarterly Fee Summary (Form 2-F)
<input type="checkbox"/>	<input type="checkbox"/>	Narrative (Form 2-G)
<input type="checkbox"/>	<input type="checkbox"/>	Bank Statement(s) for Debtor in Possession Account(s)

I declare under penalty of perjury that the following Monthly Financial Report, and any attachments thereto, is true and correct to the best of my knowledge and belief.

Executed on: _____

Debtor(s): _____

By _____

Position: _____

DEBTOR: _____

CASE NO: _____

CASH RECEIPTS AND DISBURSEMENTS STATEMENT

For Period _____ to _____, _____

CASH RECONCILIATION

1. Beginning Cash Balance (Ending Cash Balance
from last month's report) \$ _____
2. Cash Receipts (from Cash Receipts Journal
on next page) \$ _____
3. Cash Disbursements (from Cash Disbursements
Journal on next page) (_____)
4. Net Cash Flow (line 2 minus line 3) _____
5. Ending Cash Balance (to Form 2-C) \$ _____

CASH SUMMARY - ENDING BALANCE

	Amount	Financial Institution
Petty Cash	\$ _____	_____
Regular Checking	_____	_____
Tax Account	_____	_____
Other Checking Accounts	_____	_____
Interest-Bearing Deposits	_____	_____
Short-Term Investments	_____	_____
TOTAL (must agree <u>with line 5</u> above)	\$ _____	

CASH RECEIPTS AND DISBURSEMENTS STATEMENT

For Period _____ to _____, _____

CASH RECEIPTS JOURNAL

(attach additional sheets as necessary)

<u>Date</u>	<u>Description (Source)</u>	<u>Amount</u>
-------------	-----------------------------	---------------

Total Cash Receipts (to line 2
of Cash Reconciliation,

\$ _____

CASH DISBURSEMENTS JOURNAL

(attach additional sheets as necessary)

<u>Date</u>	<u>Check Nos.</u>	<u>Payee</u>	<u>Description (Purpose)</u>	<u>Amount</u>
-------------	-------------------	--------------	------------------------------	---------------

Total Cash Disbursements (from
line 3 of Cash Reconciliation)

\$ _____

DEBTOR: _____

CASE NO: _____

BALANCE SHEET - As of _____, _____**ASSETS****Current Assets:**

Cash (from Form 2-B, line 5)

\$ _____

Accounts Receivable (from Form 2-E)

Receivable from Officers, Employees, Affiliates

Inventory

Other Current Assets: _____

Total Current Assets

\$ _____

Fixed Assets:

Land

Building

Equipment, Furniture and Fixtures

Total Fixed Assets

Less: Accumulated Depreciation

(_____)

Net Fixed Assets

Other Long Term Assets: _____

TOTAL ASSETS

LIABILITIES**Post Petition Liabilities:**

Accounts Payable (from Form 2-E)

Notes Payable

Rents and Leases Payable

Taxes Payable (from Form 2-E)

Accrued Interest

Other: _____

Total Post Petition Liabilities

\$ _____

Pre-Petition Liabilities:

Priority Claims

Secured Debt

Unsecured Debt

Total Pre-Petition Liabilities

TOTAL LIABILITIES

\$ _____

OWNERS' EQUITY

Capital Stock or Owners' Investment

\$ _____

Paid-In Capital

Retained Earnings:

Pre Petition

Post Petition

TOTAL OWNERS' EQUITY

\$ _____

TOTAL LIABILITIES AND OWNERS' EQUITY

\$ _____

DEBTOR: _____

CASE NO: _____

PROFIT AND LOSS STATEMENT

For Period _____ to _____, _____

Gross Operating Revenue	\$ _____	
Less: Discounts, Returns and Allowances	(_____)	
Net Operating Revenue		\$ _____
Cost of Goods Sold		_____
Gross Profit		_____
Operating Expenses:		
Salaries and Wages	_____	
Rents and Leases	_____	
Payroll Taxes	_____	
Other (list): _____	_____	

Total Operating Expenses		_____
Operating Income (Loss)		_____
Legal and Professional Fees		_____
Depreciation, Depletion and Amortization		_____
Interest Expense		_____
Net Operating Income (Loss)		_____
Non-Operating Income and Expenses		
Other Non-Operating (Expenses)	_____	
Gains (Losses) on Sale of Assets	_____	
Interest Income	_____	
Other Non-Operating Income	_____	
Net Non-Operating Income or (Expenses)		_____
Net Income (Loss) Before Income Taxes		_____
Federal and State Income Tax Expense (Benefit)		_____
NET INCOME (LOSS)	\$ _____	=====

DEBTOR: _____

CASE NO: _____

SUPPORTING SCHEDULES**For Period _____ to _____, _____****POST-PETITION TAXES PAYABLE SCHEDULE**

<u>Balance</u>	<u>Beginning Additions</u>	<u>Deposits</u>	<u>Payments / Date Paid</u>	<u>Check No.</u>	<u>Ending Balance</u>
Income Tax Withheld:					
Federal	\$ _____	_____	_____	_____	_____
State	_____	_____	_____	_____	_____
FICA Tax Withheld	_____	_____	_____	_____	_____
Employer's FICA Tax	_____	_____	_____	_____	_____
Unemployment Tax:					
Federal	_____	_____	_____	_____	_____
State	_____	_____	_____	_____	_____
Sales, Use & Excise Taxes	_____	_____	_____	_____	_____
Property Taxes	_____	_____	_____	_____	_____
Accrued Income Tax:					
Federal	_____	_____	_____	_____	_____
State	_____	_____	_____	_____	_____
Other:	_____	_____	_____	_____	_____
TOTALS (Post Petition) (Ending Balance to Form 2-C)	\$ _____	_____	_____	_____	_____

INSURANCE SCHEDULE

	<u>Carrier / Agent</u>	<u>Amount of Coverage</u>	<u>Policy Expiration Date</u>	<u>Premium Paid Through Date</u>
Workers' Compensation	_____	\$ _____	____/____/____	____/____/____
General Liability	_____	_____	____/____/____	____/____/____
Property (Fire, Theft)	_____	_____	____/____/____	____/____/____
Vehicle	_____	_____	____/____/____	____/____/____
Other (list):	_____	_____	____/____/____	____/____/____

SUPPORTING SCHEDULES

For Period _____ to _____, _____

ACCOUNTS RECEIVABLE AND POST-PETITION PAYABLE AGING

<u>Due</u>	<u>Accounts Receivable</u>	<u>Post Petition Accounts Payable</u>
Under 30 days	\$ _____	\$ _____
30 to 60 days	_____	_____
61 to 90 days	_____	_____
91 to 120 days	_____	_____
Over 120 days	_____	_____
Total Post Petition	_____	XXXXXXXXXXXXXXXXXX
Pre Petition Amounts	_____	XXXXXXXXXXXXXXXXXX
Total Accounts Receivable XXXXXXXXXXXXXXXXXX	\$ _____	_____
Less: Bad Debt Reserve	(_____)	XXXXXXXXXXXXXXXXXX
Net Accounts Receivable (to Form 2-C)	\$ _____	XXXXXXXXXXXXXXXXXX
Total Post Petition Accounts Payable (to Form 2-C)	\$ _____	_____

SCHEDULE OF PAYMENTS TO ATTORNEYS AND OTHER PROFESSIONALS

	<u>Amount Paid</u>	<u>Date of Court Approval</u>	<u>Estimated Balance Due*</u>
Debtor's Counsel	\$ _____	_____	\$ _____
Counsel for Unsecured Creditors' Committee	_____	_____	_____
Trustee's Counsel	_____	_____	_____
Accountant	_____	_____	_____
Other: _____	_____	_____	_____

*Balance due to include fees and expenses incurred but not yet paid.

SCHEDULE OF PAYMENTS AND TRANSFERS TO PRINCIPALS / EXECUTIVES**

<u>Payee Name</u>	<u>Position</u>	<u>Nature of Payment</u>	<u>Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**List payments and transfers of any kind and in any form made to or for the benefit of any proprietor, owner, partner, shareholder, officer or director.

DEBTOR: _____

CASE NO: _____

QUARTERLY FEE SUMMARY⁽¹⁾

Month Ended _____, _____

<u>Payment Date</u>	<u>Cash Disbursements⁽²⁾</u>	<u>Quarterly Fee Due</u>	<u>Check No.</u>	<u>Date</u>
January	_____			
February	_____			
March	_____			
TOTAL 1st Quarter	\$ _____	_____	_____	_____
April	_____			
May	_____			
June	_____			
TOTAL 2nd Quarter	\$ _____	_____	_____	_____
July	_____			
August	_____			
September	_____			
TOTAL 3rd Quarter	\$ _____	_____	_____	_____
October	_____			
November	_____			
December	_____			
TOTAL 4th Quarter	\$ _____	_____	_____	_____

(1) *This Summary is to reflect the current calendar year's information cumulative to the end of the reporting period.*

(b) *Should agree with line 3, FORM 2-B, Disbursements are net of transfers to other debtor in possession bank accounts.*

CHAPTER 11 QUARTERLY FEES

FEE SCHEDULE		
TOTAL QUARTERLY DISBURSEMENTS		QUARTERLY FEE
-0- to	\$ 14,999.00	\$ 250.00
\$ 15,000.00 to	\$ 74,999.00	500.00
75,000.00 to	149,999.00	750.00
150,000.00 to	224,999.00	1,250.00
225,000.00 to	299,999.00	1,500.00
300,000.00 to	999,999.00	3,750.00
1,000,000.00 to	1,999,999.00	5,000.00
2,000,000.00 to	2,999,999.00	7,500.00
3,000,000.00 to	4,999,999.00	8,000.00
5,000,000.00	or more	10,000.00

Failure to pay the quarterly fee is cause for conversion or dismissal of the Chapter 11 case [11 USC §1112(b)(10)].

Checks are to be made payable to The United States Trustee and mailed to the address set forth below. Fees are not to be mailed or delivered to the local Office of the United States Trustee. If any check is returned "unpaid" for any reason, all subsequent payments must be made by way of cashier's check, certified check, or money order.

To ensure proper credit, it is imperative that the debtor in possession and Chapter 11 Trustee write the case number on each check and remit the payment with the coupon provided with the quarterly billing. A separate check and coupon is required for each quarterly payment even if more than one quarterly fee is paid at the same time.

Send all payments to: UNITED STATES TRUSTEE PAYMENT CENTER
P.O. Box 198246
Atlanta, GA 30384

CASE NO: _____

For Period _____ **to** _____, _____

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